Y 1.1/5:97-565

OCT 5 1982

Calendar No. 830

97TH CONGRESS
2d Session

SENATE

REPORT No.
97-565

COMPLETED
95

ORIGINAL

UNIFORMED SERVICES PAY ACT OF 1982

REPORT

To Accompany S. 2936

ON

INCREASING THE PAY AND ALLOWANCES AND BENEFITS OF MEMBERS OF THE UNIFORMED SERVICES AND CERTAIN DEPENDENTS, AND FOR OTHER PURPOSES

COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE

SEPTEMBER 21 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
98-771 O WASHINGTON : 1982

I

COMMITTEE ON ARMED SERVICES

JOHN TOWER, Texas, *Chairman*

STROM THURMOND, South Carolina
BARRY GOLDWATER, Arizona
JOHN W. WARNER, Virginia
GORDON J. HUMPHREY, New Hampshire
WILLIAM S. COHEN, Maine
ROGER W. JEPSEN, Iowa
DAN QUAYLE, Indiana
JEREMIAH DENTON, Alabama
NICHOLAS F. BRADY, New Jersey

JOHN C. STENNIS, Mississippi
HENRY M. JACKSON, Washington
HOWARD W. CANNON, Nevada
HARRY F. BYRD, Jr., Virginia
SAM NUNN, Georgia
GARY HART, Colorado
J. JAMES EXON, Nebraska
CARL LEVIN, Michigan

RHETT B. DAWSON, *Staff Director and Chief Counsel*
JAMES F. MCCOVERN, *General Counsel*
CHRISTINE C. DAUTH, *Chief Clerk*

CONTENTS

	Page
Summary of the bill:	
Pay increase for members of the uniformed services	2
Military pay raise mechanism	4
Extension of enlistment and reenlistment bonuses	5
Aviation officer bonus	5
Advance travel and transportation for overseas dependents	6
Advance travel allowances to dependents' escorts	6
Advance travel allowances to dependents' attendants	7
Reimbursement for accommodations in place of quarters	7
Limitations on requested increases in various allowances	8
Clarification of motor vehicle shipment authority	8
Military retirement changes	9
Flag and general officer strength ceiling	10
Public Health Service transfer authority	12
Indian Ocean "save leave"	12
Waiver of age requirement for original appointments of Regular officers	13
Assistant Secretaries in the Department of Defense	13
Extension of the military service obligation	14
Individual Ready Reserve enlistment and reenlistment bonuses	15
Medical care for Reserve components on inactive reserve training	15
Extension of military status during certain periods	16
Retention of twice passed-over Army and Air Force Reserve officers	17
Authority to recall Reserve retirees	17
Promotion of Army Reserve officers on active duty	18
Application of Reserve officer service credit toward transfer to Retired Reserve	18
Expanded authority to use contract surgeons	19
Military health care:	
Demonstrations and studies	20
Dental care study	20
Defense Health Agency	21
Quality of military health care	22
Cost containment	23
Clarification of 10 U.S.C. 138	25
Protection of aircraft accident safety reports	26
Contracting out of commercial and industrial-type activities	26
Nonappropriated fund employee protection	28
Increase in Civil Air Patrol death and disability compensation	29
Operating procedures for Navy brigs and notification procedures for next-of-kin in deaths of naval personnel	29
Sectional analysis	30
Committee action	51
Congressional Budget Office cost estimate	52
Regulatory impact	57
Changes in existing law	58

Calendar No. 830

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-565

UNIFORMED SERVICES PAY ACT OF 1982

SEPTEMBER 21 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. JEPSEN, from the Committee on Armed Services, submitted the following

REPORT

[To accompany S. 2936]

The Committee on Armed Services, having had under consideration the question of military pay and allowances for fiscal year 1983, reports the following bill (S. 2936) to authorize military pay and allowances, and for other purposes and recommends that the bill do pass.

SUMMARY OF THE BILL

The primary purpose of the bill is to increase the pay and allowances and benefits for members of the uniformed services and certain dependents.

S. 2936 contains eight titles as follows:

TITLE I—COMPENSATION MATTERS

Section 101. Increase in basic pay and allowances effective October 1, 1982.
Section 102. Extension of enlistment and reenlistment bonus authorities for the active forces.
Section 103. Extension of special pay for aviation career officers.
Section 104. Advance travel and transportation for education purposes for dependent children of members stationed overseas.
Section 105. Advance payment of travel and transportation allowances for escorts and attendants of dependents.
Section 106. Reimbursement for accommodations in place of quarters.
Section 107. Freeze on certain allowances during fiscal year 1983.
Section 108. Restriction on allowance for transportation of motor vehicle.

TITLE II—RETIRED PAY MATTERS

Section 201. Rounding of retired pay and survivor annuities to next lower whole dollar amount.
Section 202. Limitation on applicability of one year look-back provision.

98-771 O

TITLE III—PERSONNEL MANAGEMENT MATTERS

Section 301. Temporary increase in the number of general and flag officers on active duty.
Section 302. Transfer of Public Health Service officers to other uniformed services.
Section 303. Extension of period during which certain accumulated leave may be used.
Section 304. Authority to waive age requirement for original appointment as a commissioned officer in certain cases.
Section 305. Assistant Secretaries.

TITLE IV—RESERVE MATTERS

Section 401. Authority to increase total term of service in the Armed Forces.
Section 402. Bonuses for enlistments, reenlistments.
Section 403. Extending medical and dental care for reservists.
Section 404. Authority of the President to order members of the selected reserve to active duty.
Section 405. Authority to retain in an active status certain reserve officers who are subject to elimination from active status because of failure of promotion.
Section 406. Authority to order retired members of reserve components to active duty.
Section 07. romotion of reserve commissioned officers serving on active duty.
Section 408. Determining years of service for transfer to the retired reserve.

TITLE V—HEALTH CARE AND RELATED MATTERS

Section 501. Authority to increase the pay of contract surgeons.
Section 502. Studies and demonstration projects on health care delivery systems.
Section 503. Feasibility study of a defense health agency.
Section 504. Reports on malpractice actions and hospital accreditation status.

TITLE VI—SURVIVING SPOUSES' AND CHILDREN'S BENEFITS

TITLE VII—MISCELLANEOUS MATTERS

Section 701. Prohibition on obligation and expenditure of funds not authorized in legislation other than an appropriation act.
Section 702. Protection of reports of military aircraft accident safety investigations.
Section 03. Limitation on contracting-out certain functions.
Section 704. Employment protection for certain nonappropriated fund instrumentality employees.
Section 705. Compensation for injuries incurred in the performance of duty by members of the civil air patrol.

TITLE VIII—EFFECTIVE DATE

Section 801. Effective date.

MILITARY PAY RAISE

The military pay raises of 1980 and 1981 have restored military pay to level comparable with those in the private sector. Further, the targeted pay raises initiated by the committee last year have been especially effective in reducing inter-grade pay compression and stemming the alarming losses of midcareer and senior noncommissioned officers which represented the most serious retention problem. Those pay raises, coupled with an enhanced national appreciation for military service and an increase in private sector unemployment, have enabled the services to improve their manning in terms of both quality and quantity.

The committee is concerned, however, that the current favorable situation could lull the Nation into a false sense of security. Based on the experiences of the late 1970s, we must not forget how fragile and "perishable" the current recruiting and retention success may be. Therefore, the committee is very reluctant to accept the Admin-

istration's decision to reduce its origianl proposal of an 8% basic pay increase to a 4% increase. Nevertheless, the committee is also acutely aware of the requirement to reduce the Federal budget deficit and spending wherever possible.

With these factors in mind, the committee remains committed to continuing the momentum begun in the last two years. After careful consideration, the committee recommends that the basic pay of all uniformed services personnel, except E–1s, be increased by 4% on October 1, 1982, in general accordance with the Administration's most recent proposal.

This increase will give all servicemen but recruits a 4% raise in basic pay, the same pay raise approved for Federal civilians. While this pay raise is approximately half of what was originally budgeted to maintain comparability with private sector increases, the committee is confident that manpower recruiting and retention goals can continue to be met. The committee continues to favor targeting pay increases to specific problem areas, such as the mid-grade and senior non-commissioned officers and petty officers. However, because the 4% increase in basic pay is relatively low the committee finds that it would be difficult to target the October 1, 1982 pay increase to the career force and therefore recommends a 4% increase in basic pay for all grades, except E–1.

Representatives of the uniformed services and the Congressional Budget Office have testified before the Subcommittee on Manpower and Personnel that holding the basic pay of new recruits in pay grade E–1 constant would have no adverse effect on recruiting in fiscal year 1983. Currently, all services are experiencing great success in meeting quantity and quality recruiting goals. This trend is expected to continue through the next fiscal year.

Under the committee proposal, new recruits entering the services in fiscal year 1983 will receive $551.40 per month in basic pay plus allowances. Qualified youth are also eligible to receive up to $8,000 in cash bonuses and $17,400 in educational benefits. In addition, from the moment of entering active duty, the new recruit receives the same total compensation package available to the career force. Among others, these benefits include medical and dental care, 30 days of leave a year and the full range of morale, welfare and recreation activities.

After approximately 12 weeks of basic training, recruits are promoted to the pay grade of E–2. Promotion to pay grade E–3 occurs 9 months later. As a result, under the committee's plan, the vast majority of new recruits in fiscal year 1983 will receive a 21% increase in basic pay as the result of promotions during their first year of military service.

In view of these factors, the committee recommends no comparability increase for pay grade E–1 in fiscal year 1983. This will result in an annual savings of $62 million in fiscal year 1983 and beyond.

The committee also recommends increasing the basic allowance for quarters and basic allowance for subsistence for all grades except E–1 by 4% to help align these components of pay more closely with the rising private sector housing and food costs they are intended to offset.

MILITARY PAY RAISE MECHANISM

Currently, annual military pay raises are linked to the annual wage increases of General Schedule federal employees, which in turn are based on the annual increase in the Professional, Administrative, Technical and Clerical (PATC) survey. The current General Schedule/PATC linkage measures select white collar private sector occupations which closely match the composition of the federal civilian work force. The PATC survey was not intended or developed to mirror the predominantly blue-collar military work force.

For the last two years, Congress has had to take specific action to de-link military and civil service pay raises in order to provide military personnel with a pay raise that was higher than the civil service pay raise. The experience of the past two years should demonstrate conclusively that the compensation needs of the military and the civil service are different. Yet despite repeated urging from this committee over the past several years, the Defense Department has not come forward with recommendations for a new standard for establishing the level of annual military pay adjustments.

In recent testimony before the Manpower and Personnel Subcommittee, Dr. Lawrence Korb, the Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics, testified that the military services favored linking military pay to the annual change in the Employment Cost Index (ECI). This relatively new index published by the Bureau of Labor Statistics measures changes in compensation for workers in the civilian non-farm economy. As such, the ECI measures wage change for about 88 million workers in the United States, including 13 million state, city and local government employees. However, despite the fact that the military services favor linking military pay to the ECI, neither the Office of the Secretary of Defense nor the Office of Management and Budget has indicated their position on this important question.

The committee continues to believe that the current military pay raise mechanism linking military pay to the annual civil service pay raises does not provide either the Executive Branch or Congress with the flexibility necessary to deal with the unique requirements of military compensation. Accordingly, the committee again directs the Defense Department to submit recommendations to the Congress for a new military pay adjustment mechanism by March 1, 1983.

In directing the Defense Department to consider this question, the committee notes that whatever methodology is used to adjust military pay, there is a tendency to overstate the entry level wage growth applicable to the enlisted force. This tendency exists because the average wage growth measured by surveys such as the PATC or the ECI is not necessarily representative of private sector pay practices applicable to younger, untrained, entry level employees. In light of this fact, the committee directs that the March 1, 1983 recommendations from the Defense Department on the overall military pay adjustment mechanism includes specific recommendations on the preferred adjustment mechanism for entry level enlisted pay.

EXTENSION OF AUTHORITY FOR ENLISTMENT/REENLISTMENT BONUSES

The authority of the Department of Defense to pay bonuses for enlistment and reenlistment in the armed forces will terminate on September 30, 1982. Currently, enlistment bonuses of up to $5,000 for a 4-year enlistment are authorized; however, the maximum bonus now being paid is $5,000. These bonuses are limited to those who enlist in critical skills, and the majority of the personnel receiving enlistment bonuses enter the Army's combat arms. Reenlistment bonuses of up to $20,000 for reenlistment in critical skills are currently authorized. However, only nuclear-qualified petty officers are eligible for the maximum bonus; other skills are limited to no more than $16,000.

On numerous occasions, the committee has expressed concern over what appears to be an ever growing system of bonuses. Although bonuses can be an effective method of addressing specific manpower shortages, they can lead to increased personnel costs and create a system of "haves and have-nots" within the services—a de facto pay-by-skill system—that can damage morale and ultimately reduce readiness. Given these reservations, the committee recommends extending the enlistment and reenlistment bonus authorities by only one year, to September 30, 1983.

AVIATION OFFICER BONUS

In passing the fiscal year 1981 Defense Authorization Act, the Congress enacted a new continuation bonus for aviation officers in an effort to improve the serious manning shortages in these skills. Subsequent to its original enactment, the bonus was limited to Navy and Marine Corps aviators only. Both the Navy and the Marine Corps are convinced that this bonus has been used cost-effectively and has been a major factor in their improved aviator retention. Both services request that their authority to pay it be extended beyond the September 30, 1982 expiration date.

The committee, however, is concerned that the implementation of the aviation bonus by the Navy and Marine Corps has not fully achieved its intended goal of targeting bonus dollars to specific aviation specialties and to the career points where shortages which cannot be addressed by other management actions exist. In a report on Service use of the aviation bonus (FPCD-82-56; August 9, 1982), the General Accounting Office (GAO) asserted that the Navy and Marine Corps have not judiciously managed the bonus program. The GAO cited a number of questionable practices, including payment of bonuses to Naval Flight Officers even though they were not in critical shortage and, in the Marine Corps, authorization of payment of bonuses to aviators in grades where there are surpluses.

Despite those criticisms, the GAO recommended that the bonus authority be extended to address the continuing critical shortage of naval aviators. The committee agrees with that recommendation. However, in extending the authority, the committee recommends the following changes to the aviation bonus program:

a. Extend the authority to September 30, 1983, and continue to restrict its use to only Navy and Marine Corps aviators; however, aviators who receive the bonus will continue to re-

ceive the Aviation Career Incentive Pay rates in effect on September 30, 1981;

b. Allow only 3, 4, or 6-year contracts and limit each aviator to one contract during his eligibility;

c. Limit the maximum bonus amounts to $6,000 per year for a 4- or 6-year commitment and $4,000 per year for a 3-year commitment;

d. Limit eligibility for the bonus to those aviators who have at least six but less than eleven years of active duty.

Finally, the Committee has included a provision expressing the sense of the Congress that payment of the aviation bonus should be limited to officers who will likely be induced to remain on active duty in aviation service by receipt of the special pay. The committee has intentionally refrained from indicating how the bonus should be implemented or to which specific aviation community it should be targeted. However, the committee intends the aviation bonus to be used as a bonus to overcome manning problems within the aviation community. This provision also requires a report from the Secretary of the Navy which is approved by the Secretary of Defense by July 1, 1983, on how this bonus was implemented and the effect the bonus has had on aviator retention.

ADVANCE TRAVEL AND TRANSPORTATION FOR DEPENDENTS TO ATTEND SCHOOL

Under existing statutory authority, the dependents of a member assigned to duty overseas are entitled to transportation at government expense to the overseas location. At the completion of the tour, the member is again authorized return travel for his dependents.

A problem arises when a member's dependent leaves the overseas area prior to the member's completion of his tour in order to attend school in the United States. Because the member has not received orders returning him to the United States, the cost of dependent travel is at his expense. This hardship further compounds the problems associated with overseas duty and is a disincentive for such service. Further, an inconsistency exists because a dependent is authorized government-funded return travel if no suitable employment can be found in the overseas area or the dependent is determined to be a discipline problem by the post commander. To restore consistency and remove this irritant, the committee recommends that dependents be authorized one return trip early for educational purposes. This single trip would be authorized to the port of debarkation in the United States nearest the dependent's educational institution or to the sponsor's home of record. No further travel to or from the overseas area at government expense will be authorized. The cost of this provision should be nominal.

ADVANCE TRAVEL ALLOWANCES TO ESCORTS OF DEPENDENTS

Pursuant to section 1036 of title 10, United States Code, service regulations provide round-trip transportation and travel allowances to any person traveling as an escort of a dependent of a member who has died, is missing, or is otherwise unable to accompany the dependent. In addition, it must be determined that the dependent

is incapable of traveling alone. However, an advance payment of travel allowances is not authorized. The lack of authority to pay advance travel allowances has caused escorts financial hardship. Without authority to pay advance travel allowances for meals, lodging and incidentals, an individual traveling as a child's escort is required to initially finance the cost of travel at personal expense. This initiative to authorize the payment in advance of travel allowances should not result in any additional cost.

ADVANCE TRAVEL ALLOWANCES TO ATTENDANTS OF DEPENDENTS

Under the authority of section 1040 of title 10, United States Code, service regulations provide travel and transportation allowances to attendants who travel with a military dependent to a medical facility outside the United States. However, an advance payment of travel allowances is not authorized. To mitigate the compounding effects caused by financial hardships in very trying and often emotional situations, the committee is recommending authority to pay advance travel allowances for medical attendants. This provision is a no-cost initiative which will improve military service in foreign environments where adequate health care facilities are not available.

REIMBURSEMENT FOR ACCOMMODATIONS IN PLACE OF QUARTERS

Until 1980, enlisted members below the pay grade of E–7 who were on sea duty, including those personnel assigned to ships in overhaul, were not entitled to a basic allowance for quarters (BAQ) when shipboard quarters were not available. During ship overhaul when shipboard quarters were uninhabitable, personnel were provided either government quarters ashore, a living barge, or government-leased quarters. However, these accommodations were not always available at private and public shipyards. In addition, it was often impracticable to provide government-leased quarters.

Recognizing the need to provide adequate quarters for personnel displaced from shipboard quarters when no other government quarters were available, the committee initiated an amendment to the Reserve Officers' Training Corps Scholarship Act of 1980 (Public Law 96–357) to authorize reimbursement of a member's lodging expenses not to exceed the BAQ of a member of the same grade without dependents. Authority for this reimbursement was initially provided through September 30, 1981. The Uniformed Services Pay Act of 1981 (Public Law 97–60) extended for one year through September 30, 1982, the authority for such reimbursement plus the amount of a variable housing allowance (VHA) which could be paid to a member of the same pay grade at the location where shipboard quarters were deprived. This provision did not constitute authorization to pay a VHA; it merely provided a method for determining the maximum amount a member could be reimbursed for actual expenses incurred in obtaining quarters.

The committee proposes to extend for one year the authority granted in 1980 and extended in 1981 to reimburse members for alternate quarters when they are deprived of shipboard quarters because of repairs or other conditions that render the ship uninhabitable. For fiscal year 1983, the total reimbursement authorized

under this section may not exceed $4,000,000. The committee directs the Navy to continue its efforts to provide alternative government housing for these personnel so that this authorization can be eliminated in the near future.

LIMITATIONS ON REQUESTED INCREASES IN VARIOUS ALLOWANCES

The President's fiscal year 1983 budget requested $198.0 million in appropriations to fund increases in various benefits for service members and their dependents.

Under this request, the mileage allowance for permanent change of station (PCS) travel for a military member would be increased from 13¢ to 16¢ per mile. The allowance would be increased from 7¢ to 10¢ per mile for dependents age 12 and older and from 3½¢ to 7¢ per mile for dependents under 12.

The weight allowances for shipment of household goods in conjunction with permanent change of station moves would be increased by between 500 and 2,500 pounds, depending on grade.

The basic allowance for subsistence (BAS) would be paid to single enlisted members in the grades of E–5 and above so that they could choose to eat in the government dining hall or in private or commercial facilities. This cash allowance is currently available only to certain single service members in the grades of E–7 and above.

In light of the budgetary pressures facing the Congress this year, the committee believes that some of these discretionary benefit increases should be postponed. Consequently, the committee recommends bill language which will freeze dependents' mileage allowances and eligibility for cash BAS at current levels for fiscal year 1983. However, the committee strongly endorses increasing the member's permanent change of station mileage allowance to 16¢ per mile. Nationally recognized travel data indicates that it costs over 16¢ per mile to operate an automobile. Continued under-reimbursement of travel expenses requires service members to personally subsidize the costs of government-directed moves. Further, the committee endorses an increase in the household goods weight allowance for grades E–7 through E–9 of up to 1,500 pounds. While it recognizes that there is an across-the-board need for relief, the committee believes the need is greatest among senior enlisted personnel.

The committee's action will result in savings of $129.0 million from the $198.0 million included in the fiscal year 1983 budget for these increases in benefits.

CLARIFICATION OF MOTOR VEHICLE SHIPMENT AUTHORITY

The committee recommends a clarification of section 406(c)(1) of title 37, United States Code, which authorizes the payment of a one-way mileage allowance for delivering a motor vehicle to a port for shipment and for picking up the vehicle from the port of debarkation in connection with a permanent change of station move. The committee initiated this new authority in the Uniformed Services Pay Act of 1981 (Public Law 97–60) because necessary expenses were being incurred which were not being reimbursed as part of the allowances paid in connection with a change of station move. It was clear at that time that this was to be reimbursement for neces-

sary travel, not for travel which suited the personal convenience of the member. It was intended that this authority be applied in a common-sense manner which would be the most cost effective to the government and would be viewed in conjunction with other reimbursement to the member and his dependents for the change of station move. This application would prevent double payment for the same travel.

The committee understands that very liberal interpretation of this new authority has resulted in the reimbursement of members for travel options which they have selected for their personal convenience, e.g., to accommodate travel to a desired leave location. This section clarifies the committee's original intent. The options for reimbursement will be for travel to (or from) the port nearest the old (or new) duty station or travel to (or from) another port located between the old and new duty stations, whichever travel option is most cost effective for the government. We believe this is fair to both the member and the government.

The committee intends the requirement that the transportation utilized be the most cost-effective for the Government to be applied in a broad, common-sense manner. That is, a cost-benefit analysis of each move will not be required, as the cost of doing such an analysis in each case would far outweigh any savings. Standard rules may be established which, if applied consistently, would result in the most cost-effective result in the vast majority of cases. In this same context, the committee understands that operational necessity often determines the availability of a particular port, especially in certain foreign countries. This factor may be considered in applying this provision and determining overall cost-effectiveness.

MILITARY RETIREMENT CHANGES

On April 30, 1982, as part of a comprehensive package of revisions to the federal retirement systems, the Administration submitted to Congress four proposed changes to the military retirement system. These proposed changes included: 1) rounding down retired pay monthly annuities to the next lower dollar; 2) eliminating, for future retirees, the one year "look-back" provision; 3) providing partial or no increases in retired pay to military retirees who retired in the past and whose retired pay is currently higher than the retired pay of similar members who retire today; and 4) limiting future annual adjustments in military retired pay to the lesser of the annual increase in active duty pay or the annual increase in the Consumer Price Index. The Defense Department estimated that these changes in military retired pay would save $93 million in fiscal year 1983.

The committee has carefully considered the Administration's proposals. In light of the recent action by Congress in the Omnibus Budget Reconciliation Act of 1982 (Public Law 97-253) to limit cost-of-living increases for certain military and federal civilian retirees to one-half of the increase in the cost-of-living for the next three years plus any amount by which the actual percentage increase in the cost-of-living exceeds the current projected increases, the com-

mittee recommends adoption of only two of the administration's four proposed changes in military retired pay.

The first change recommended by the committee involves rounding down retired pay monthly annuities to the next lower dollar. This action is consistent with the provisions of the Onmibus Budget Reconciliation Acts of 1981 and 1982, which, respectively, provided for rounding down monthly Social Security benefits and monthly civil service annuities to the next lower dollar. Under the committee proposal, monthly military retired pay will be rounded down to the nearest dollar beginning January 1, 1983, for individuals retiring on or after that date, and on April 1, 1983, the date of the next cost-of-living adjustment, for all other persons entitled to retired pay.

The second change recommended by the committee is the elimination of the current one year "look-back" provision for computing military retired pay. This provision allows military retirees to base their retired pay on the pay scale in effect on the date of their retirement, or the immediate preceding pay scale adjusted upward by the change in the cost-of-living, whichever is greater. However, the committee recognizes that some retirement eligible members may have extended their service with the understanding that the one year "look-back" provision would be available to them upon retirement.

Therefore, the committee recommends that the elimination of the one year "look-back" provision be effective three years from the date of enactment of this provision for all individuals on active duty who are eligible to retire on the date of enactment of this bill. The committee has also included a save-pay provision insuring that the retired pay for individuals who retire after the effective date of repeal of the one-year "look-back" will not be less than it would have been if they had retired on the day before the one-year "look-back" was eliminated.

The committee notes that the elimination of this one year "look-back" feature will not remove the so-called Tower amendment, a separate look-back provision in 10 U.S.C. 1401(a), that permits a member to have retired or retainer pay calculated on a previous basic pay scale in effect on or after January 1, 1971, at the grade and years of service held under that previous scale, plus any adjustments that occurred in retired or retainer pay since that earlier scale. However, unlike the one year "look-back", a member must have been eligible to be retired under the previous scale in order to utilize the "look-back" provision of the Tower amendment.

FLAG AND GENERAL OFFICER STRENGTH CEILING

The fiscal year 1981 Department of Defense Authorization Act deferred for one year until October 1, 1981, the effective date of the 1,073 ceiling on flag and general officers. In granting the deferral, requested by the Department of Defense, the committee recommended that the Department of Defense take positive steps to manage flag and general officer requirements by: (1) reallocating 24 flag and general officer positions among the services on other than a pro-rata basis; (2) proposing legislation that would repeal minimum grade requirements in law for certain flag and general

officer positions; and (3) recommending a system for annual review and validation of 25 percent of flag and general officer resources.

During fiscal year 1981, the Department took actions to fulfill the first two requirements; however, comprehensive legislation was not submitted. In its fiscal year 1982 authorization request, the Department requested repeal of the 1,073 flag and general officer ceiling. The committee did not agree, and on October 1, 1981, the 1,073 ceiling became effective. However, on March 25, 1982, the Department submitted to the committee comprehensive legislation on flag and general officer management.

The comprehensive legislation would establish (1) a uniform system of accounting for flag and general officer requirements or utilization; (2) a rational methodology for determining flag and general officer ceilings based on structure, strength and non-direct mission categories; (3) a standardized system for the annual review, validation, and reporting of 25 percent of general and flag officer resources; and (4) a more clearly defined structure for Departmental control over flag and general officer authorizations.

The Department has complied with the committee's original directions, and the comprehensive legislation is now under study by the Subcommittee on Manpower and Personnel. While the comprehensive legislation is pending and service requirements are expanding, the committee recognizes that the 1,073 flag and general officer ceiling may impose undesirable mission and officer management hardships. Therefore, the committee recommends that the 1,073 ceiling be replaced by a 1,100 ceiling effective through September 30, 1983. This ceiling relief is intended only to provide a reasonable margin within which the services may operate while awaiting enactment of comprehensive flag and general officer legislation. The committee specifically intends that this increase in the ceiling should not result in the authorization of back pay or earlier dates of rank for those flag and general officers frocked under the 1,073 ceiling.

In allocating the 27 additional flag and general officer positions authorized in this provision to the Military Services, the committee required that not less than 7 such officers be allocated to the Navy and not less than 2 such officers be allocated to the Marine Corps. This requirement insures that the Navy shall be able to fill the current request of the Director of Central Intelligence for an officer in the grade of Vice Admiral to serve as Director of the Intelligence Community Staff.

In addition, the committee believe that the practice of frocking general and flag officers is excessive. The practice tends to proliferate the number of individuals who wear insignia in excess of their statutory grades. While the committee recognizes that frocking individuals in certain key billets facilitates mission accomplishment and that in some cases international protocol is enchanced by the prestige accorded to a higher grade in foreign countries, the committee believes the current number of individuals who have been frocked is unnecessarily high. Therfore, the committee directs the Service Secretaries to judiciously exercise their "frocking" authority. The committee will continue to closely monitor this practice to determine if formal legislative constraints will be necessary in the future.

PUBLIC HEALTH SERVICE TRANSFER AUTHORITY

Closure of eight Public Health Service hospitals and their attendant clinics as a result of provisions in the Omnibus Budget Reconciliation Act of 1981 resulted in many members of the Public Health Service seeking appointment in the medical departments of the armed forces.

While transfers from the Public Health Service to medical departments of the Military Services are administratively possible, prior commissioned service in the Public Health Service is lost in two ways. First, service in the Commissioned Corps of the Public Health Service may not be included in service creditable toward retirement in the armed forces. Second, in some cases, depending on the individual's health care profession and length of service, certain service in the Corps may not be creditable toward determination of grade in the armed forces. This grade and retirement credit loss is a substantial disincentive for Public Health Service members who desire to transfer to one of the Military Services.

Therefore, the committee recommends a provision authorizing the transfer of officers of the Public Health Service to any one of the uniformed services. For the purpose of determining grade, this provision would permit transfer of previous commissioned service but would not permit appointment to a higher grade then held on the day before the transfer. This provision would also permit Public Health Service doctors to transfer previous Public Health Service credit to the military retirement system. Transfers would be discretionary with the individual Service Secretaries who would determine how much credit could be transferred for grade determination.

INDIAN OCEAN "SAVE LEAVE"

Primarily in response to extensive Indian Ocean naval deployments, the Congress authorized certain members to carry forward up to 90 days leave (rather than 60) under certain circumstances. The services have effectively used this authority not only for extensive naval deployments but for the ongoing augmentation of military air traffic controllers to the Federal Aviation Administration (FAA) as well. However, that law requires that the leave accrued in excess of 60 days must be used before the end of the f l year following the fiscal year in which the excess was accrued. For example, excess leave accrued during a deployment in fiscal year 1980 had to be used before the end of fiscal year 1981 or be lost. In fact, some members were unable, due to military exigencies, to use the accrued excess leave they had carried over; therefore, they actually lost leave.

As a result of this unintended penalty to the member, the committee recommends extending by two years the date by which excess accrued leave must be used or lost by those eligible to carry forward excess leave. This extension will grant appropriate relief to deserving members who serve on long, arduous deployments or who are not otherwise able to use their leave because of unique, operational requirements such as the FAA augmentation. Also, to redress the penalty already imposed on members who wrongly lost leave as a result of this provision, the committee intends this

change to be retroactive to leave accrued during fiscal year 1980 and thereafter so that the lost leave can be reinstated.

WAIVER OF THE CURRENT AGE REQUIREMENT FOR ORIGINAL APPOINTMENTS OF REGULAR OFFICERS

The committee recommends an amendment to 10 U.S.C. 532(d) to provide the Secretary of the Military Department concerned with authority, which would be defined under regulations prescribed by the Secretary of Defense, to grant waivers in individual cases of the requirement that a person be able to complete 20 years of active commissioned service before his 55th birthday in order to qualify for a commission in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps. The committee intends that waivers should be granted only under exceptional or unusual circumstances. In addition, the appointment must be consistent with the skill needs of the military service concerned. Typically, a waiver would be used in those cases where the individual has recent enlisted experience, or has professional training, education or experience that is specifically required by the service concerned. Such waivers should be restricted to those persons who can complete 20 years of active commissioned service before being required to retire mandatorily for age as required by 10 U.S.C. 1251. A person appointed as a medical or dental officer, chaplain or as a limited duty officer continues to be exempted from the requirement to complete 20 years of active commissioned service before age fifty-five.

ASSISTANT SECRETARIES IN THE DEPARTMENT OF DEFENSE

In March 1978 the Secretary of Defense eliminated two Assistant Secretary of Defense positions and one Assistant Secretary position in the Departments of the Army, Navy and Air Force. The Secretary made these changes by exercising the reorganization authority granted him by subsection 125(a) of title 10, United States Code.

The current Secretary of Defense requested in a May 9, 1981 legislative proposal that the five positions abolished by his predecessor be restored. He argued that elimination of these top-level positions had "reduced the flexibility of the Department in adapting the Office of the Secretary of Defense and the Service Secretariats to changes in defense priorities, policies, and program emphasis."

In a subsequent letter on June 28, 1982, to the Chairman of the committee, the Deputy Secretary of Defense explained that the composition of the Department's request had changed slightly since it had originally been submitted. The Air Force Secretariat was satisfied that experience had proven that its existing organization did not require the authorization of another Assistant Secretary position. In addition, the Deputy Secretary responded to Congressional concern in the area of Command, Control, Communications and Intelligence (C^3I) by expressing the support of the Department for an Assistant Secretary of Defense with specific responsibility for these important activities. Therefore, the Department had modified its initial proposal to request the authorization of three new Assistant Secretaries of Defense (one of which is to be designated for C^3I

management) and one Assistant Secretary position in the Departments of the Army and Navy.

During the two most recent authorization cycles, the committee has strongly supported several funding initiatives to strengthen U.S. Command, Control, Communications and Intelligence capabilities. At the same time, the committee has encouraged the Department to designate an official serving in one of the highest positions of authority with responsibility for C^3I oversight and management. The Defense Department has now agreed to support the authorization of such a position at the Assistant Secretary of Defense level.

The committee endorses the Defense Department's most recent request for additional Assistant Secretaries. With the exception of the Assistant Secretary of Defense for Command, Control, Communications and Intelligence, the provision recommended by the committee would not designate specific responsibilities for these new positions. Instead, the provision would grant the Defense Department the organizational flexibility needed to shift top-level officials among changing priorities.

EXTENSION OF THE MILITARY SERVICE OBLIGATION

Our military forces are currently manned at a peacetime level. However, a large number of additional personnel would be needed to rapidly bring the forces up to warfighting strength. Mobilization plans call for trained and pretrained personnel to be provided by the active forces, the Selected Reserve, the Individual Ready Reserve (IRR), the Standby Reserve (including the Inactive National Guard), and the Retired Reserve. Their mobilization would provide time in which to train draftees or volunteers to sustain or increase fighting force levels.

During the draft years, the Guard and Reserve forces were able to meet their required manning levels because many individuals were satisfying their military obligation in the Reserves. In addition, large numbers of personnel leaving the active forces were transferred to the IRR to complete their 6-year service obligation. Since the end of the draft, however, Reserve force strengths have declined. More importantly, the size of the pretrained manpower pool has shrunk. Consequently, the ability to supply pretrained manpower in the numbers and quality to meet full mobilization requirements, especially for the Army, has become a major concern.

Most individuals enlist for three or four years on active duty or in Selected Reserve units and serve the remainder of their 6-year obligation in the IRR or Inactive National Guard (ING). By extending the military obligation term from 6 to 8 years, the amount of time served in the IRR and ING would be increased by up to 2 years. In the long term, a 2-year extension in the IRR and ING will overcome—to a very large extent—the pretrained manpower shortfall. Lt. Gen. Maxwell Thurman, the Army Deputy Chief of Staff for Personnel, testified before the Manpower and Personnel Subcommittee that extension of the military service obligation is "the only effective long-term solution to our manpower shortages in the Individual Ready Reserve." Therefore, the committee recommends extending the military service obligation from six years to a period of at least six but not more than eight years. The Secretary of De-

fense and the Secretary of Transportation, in the case of the Coast Guard when it is not operating as a service in the Navy, would determine the exact length of the obligation.

ENLISTMENT AND REENLISTMENT BONUSES FOR THE INDIVIDUAL READY RESERVE

Although the increase in the military service obligation authorized by the committee will eventually eliminate the shortages of pretrained manpower, the effect of this policy will not begin to be felt for six years. In the meantime, there is a critical need to continue building the size of the pretrained manpower pool, particularly in the Army. For this reason, the committee has included in the bill authority requested by the Defense Department to begin paying enlistment and reenlistment bonuses for the Individual Ready Reserve and the Inactive National Guard.

The enlistment bonus recommended by the committee authorizes payment of a bonus of up to $1,000 for direct enlistment into the Individual Ready Reserve. Direct enlistment would allow an individual to join the Individual Ready Reserve, undergo initial training, return to the Individual Ready Reserve for the remainder of the Service obligation, and participate in periodic refresher training. Enlistment bonuses would only be paid to individuals enlisting in combat or combat support skills where critical shortages exist. The committee directs that the enlistment bonus be targeted to these skills only.

The reenlistment bonus proposed by the committee authorizes payment of a reenlistment bonus of up to $900 to individuals who agree to reenlist or extend their term of service in the Individual Ready Reserve or the Inactive National Guard for three years beyond their existing service obligation. Like the enlistment bonus, eligibility for the reenlistment bonus would be limited to individuals in combat and combat support skills. As with the enlistment bonus, the committee directs that the reenlistment bonus be targeted to critically short skills only.

The authorization for the enlistment and reenlistment bonuses for the Individual Ready Reserve is limited to fiscal year 1983 and fiscal year 1984. The committee intends to review the implementation of these bonuses, as well as their effectiveness in increasing the number of personnel with combat skills in the IRR, before extending them beyond fiscal year 1984.

MEDICAL CARE FOR RESERVE COMPONENTS ON INACTIVE DUTY TRAINING

The Reserve and National Guard components are integral parts of the nation's total military force. Members of these components often serve side by side with their active duty counterparts in training and other missions. However, Reservists and National Guardsmen performing military duties do not enjoy the same benefits available to servicemen on active duty.

One of the most serious differences is in the scope of medical care coverage associated with periods of training. Medical care is available to Reservists and Guardsmen for injuries they suffer during or while traveling to or from fulltime training (30 days or

less) and fulltime training duty (over 30 days). The medical coverage associated with periods of inactive duty training (IDT) is much less comprehensive. Reservists and Guardsmen injured during IDT can take advantage of direct military medical care or reimbursement for emergency care in a civilian facility. However, injuries suffered while traveling to and from the site of inactive duty training are excluded from this coverage.

The committee believes that this inequity should be corrected in order to encourage the integration of the Reserve components into the total military force. Therefore, the committee recommends a provision authorizing medical care for injuries suffered by Reservists and Guardsmen while traveling directly to and from inactive duty training and during periods of time directly related to IDT training assemblies. A basic allowance for subsistence would be paid during hospitalization resulting from such injuries.

Enactment of this provision into law will fill a "gap" in the medical care coverage available to Reservists and National Guardsmen performing military duties. It should substantially improve the conditions in which they serve our country.

EXTENSION OF MILITARY STATUS DURING CERTAIN PERIODS

The committee is concerned that the President has inadequate discretionary authority to augment the active forces in the event of situations other than during a war or national emergency. The President's existing authority should be enhanced to provide greater flexibility in a crisis situation requiring a measured military response, but for which a declaration of national emergency would be considered premature or have undesirable international consequences.

Currently, the President's augmentation authority in such circumstances (10 U.S.C. 673(b)) is limited to the call-up of 100,000 Selected Reserves for a period not to exceed 90 days. The committee believes that this authority is insufficient to establish the deterrent credibility of an augmented force and that it does not maximize the flexibility of the President in times of acute international tension. In large part, the existing authority insures only the replacement of those on active duty who have reached the end of their obligated service. Moreover, the 90-day period limits the ability of the President to use diplomatic initiatives, combined with the demonstration of military will and capability, to defuse a crisis, thereby obviating the need for the introduction of forces and a declaration of national emergency.

The committee proposes to increase the existing time limit from 90 to 180 days in which the 100,000 Selected Reserve call-up may be exercised. The committee has also provided the President with authority that allows for the emergency retention of critical skill personnel during that same 180 day period.

The committee believes this action is consistent with the intent of existing authority and will enhance national security by allowing the President to bring credible influence to bear on a crisis situation before combat occurs or becomes necessary. Should deterrence fail, this measure will assist greatly in preserving U.S. inter-

ests by allowing for early and decisive reinforcement of friendly forces before a conflict escalates or is resolved unfavorably.

RETENTION OF TWICE PASSED-OVER ARMY AND AIR FORCE RESERVE OFFICERS

Section 6389(b)of title 10, United States Code, currently authorizes the Secretary of the Navy to retain in active Naval Reserve status Reserve officers in pay grades O–2 and O–3 who are twice passed over for promotion. Congress authorized this retention program because it believed that the previous practice of automatically eliminating twice passed-over officers from active status in the Reserves wasted valuable mobilization assets. It was also counterproductive to efforts by the military services to correct personnel shortages in the Ready Reserve.

The committee recommends provisions granting the Secretaries of the Army and Air Force the same discretionary authority now enjoyed by the Secretary of the Navy concerning the retention in active Reserve status of Reserve officers who have been twice passed-over for promotion. This new legislation will help increase the nation's mobilization readiness by allowing each of the Service Secretaries the managerial flexibility to retain or eliminate from active Reserve status certin skilled Reserve officers on a case by case basis.

AUTHORITY TO RECALL RESERVE RETIREES WHO HAVE RETIRED AFTER AT LEAST TWENTY YEARS OF ACTIVE DUTY SERVICE.

After serving at least twenty years on active duty, both regular and reserve members are immediately eligible for retired pay upon leaving active service. Under current law (10 U.S.C. 688), the Service Secretaries have the authority to recall regular retired members to active duty. However, this authority does not extend to reservists who retire with twenty years active service, despite the fact that these reservists are identical to their regular counterparts in their eligibility for military retired pay.

Enlisted members of the Navy and Marine Corps (both regular and reserve) may, after at least twenty years but less then thirty years of active service, elect transfer to the Fleet Reserve or the Fleet Marine Corps Reserve, respectively, instead of retiring. After thirty years of total service, those members who elect this option are transferred to the retired list or to the Retired Reserve of their Service, as appropriate. During their tenure in the Fleet Reserve or the Fleet Marine Corps Reserve, they receive "retainer pay," which is identical to retired pay for the same amount of service. However, the members of the Fleet Reserve and the Fleet Marine Corps Reserve are not currently subject to the broad recall authority contained in 10 U.S.C. 688.

Military retirees constitute significant mobilization assets. There are thousands of support positions that can be filled by retirees during a mobilization or national emergency, and current mobilization plans call for using a great many of these retirees. Substituting retirees in support positions would release many young military members of the active forces for combat roles.

The committee therefore recommends an amendment to 10 U.S.C. 688 which will extend the broad recall authority of the Service Secretaries to cover reservists who spent at least twenty years on active duty and are receiving military retired pay, and to members of the Fleet Reserve and Fleet Marine Corps Reserve. This amendment will standardize the authority of the Service Secretaries to recall to active duty all military members, both active and reserve, who have served on active duty for at least twenty years and who are receiving military retired or retainer pay. In doing so, the amendment makes equitable the liability for recall to active duty of persons who are similarly situated with respect to retired pay, as well as enhances the timeliness with which all military retirees could be utilized effectively during times of crisis.

PROMOTION OF ARMY RESERVE OFFICERS ON ACTIVE DUTY

Existing law precludes commissioned Army Reserve officers who are promoted in the Army Reserve while serving on active duty (other than for training) from serving in the higher grade while on active duty. They must either leave active duty or accept an appointment in a temporary grade equal to the grade in which they were serving before the promotion. An Air Force Reserve officer in a similar situation may be ordered to serve on active duty in the higher Reserve grade to which he was promoted.

The committee recommends that the Secretary of the Army be authorized to order these officers to serve on active duty in their higher grade. This recommendation would be accomplished by amending section 3380 of title 10 (applicable to Army Reserve officers) so that it is similar to the provisions of section 8380 of title 10, which is applicable to Air Force Reserve officers. This action will remove the inequity now experienced only by Army Reserve officers.

APPLICATION OF RESERVE OFFICER SERVICE CREDIT TOWARD TRANSFER TO RETIRED RESERVE

Sections 3353 and 8353 of title 10, United States Code, authorize service credit for professional experience and education for a person appointed as a Reserve commissioned officer in an active status in the Army or Air Force. Service credit is designed to reflect the years of study and experience of an individual in professional fields such as law and medicine. It does not count toward longevity for basic pay or for service to qualify for retired pay under chapter 67 of title 10. However, it does count in computing the officer's years of service when appointing an individual to a commissioned grade above second lieutenant and in computing the officer's total allowable years of Federal commissioned service. Since service credit is counted in calculating the years of service for determining when a Reserve commissioned officer must be transferred to the Retired Reserve, some Reserve officers appointed to the Judge Advocate General Corps or the Medical Corps have their careers unnecessarily shortened.

The committee considers the use of service credit for the purpose of determining mandatory transfer to the Retired Reserve as counter-productive to the needs of the military departments to

retain senior experienced professional officers. Therefore, the committee recommends a provision eliminating the application of service credit toward determining eligibility for transfer to the Retired Reserve. This provision will provide military personnel managers with additional flexibility in managing their professional personnel resources.

EXPANDED AUTHORITY TO USE CONTRACT SURGEONS

The Military Services continue to have shortages of military physicians, especially in certain critical specialties, which cause interruption or deferral of health care to authorized beneficiaries. While long-range programs such as the Armed Forces Health Professionals Scholarship Program and the Uniformed Services University of Health Sciences are expected to help in correcting this shortage, the problem will persist for several years. In the interim, it is necessary for the Military Services to use civilian physicians.

There are currently three methods for the Military Services to acquire civilian physician services. First, physicians may be hired as civil service employees. This method is of little help, however, because the limitations on civil service employees' pay are such that few, if any, individuals apply for positions in undesirable locations or in critical specialties. A second method now available is to hire contract surgeons. This method is inadequate because only the Army and Air Force now have this authority, and the authorized salary is fixed at that of a commissioned officer in pay grade O–3 with over four but not more than six years of service, plus the sum of the subsistence and quarters allowances. This salary is so low that only part-time contract surgeons can now be hired. The third method of obtaining non-uniformed physician services is by service contracts. This method is also unsatisfactory, because only a few types of health services, such as radiology and pathology, are susceptible to procurement by non-personal service contracts. Moreover, the armed forces have no authority to use personal service contracts for the purpose of hiring full or part-time surgeons on a permanent basis to perform health care services.

In order to give the Military Services the flexibility to contract for the services of individual civilian doctors, the committee recommends a provision requested by the Defense Department which will extend to the Navy and the Coast Guard the authority to employ contract surgeons. The provision also gives the Military Services the authority to use personal service contracts for all kinds of health care services within the military health care system. Finally, the provision recommended by the committee will make the salary of a contract surgeon negotiable depending upon the skills of the individual and the needs of the Military Services for those skills up to the sum of the basic pay, basic allowance for subsistence, and basic allowance for quarters of an O–6 with over 26 years of service. In implementing this provision, the committee expects the maximum allowable salary to be used sparingly. The committee also expects the Military Services to establish regulations developing salary scales so that the determination of the salary for any particular contract surgeon in any particular job will be based on objective criteria and cannot be subject to individual favoritism.

The committee directs the Defense Department to forward copies of these regulations to the Armed Services Committee of the House and Senate no later than 120 days following enactment of this provision.

Although raising the maximum allowable salary for contract surgeons will result in increased costs for civilian doctors, the committee believes that the overall effect of this provision will be substantial savings in military health care costs. Information presented to the committee by the Military Services indicates that shortages of doctors in certain military medical facilities has caused many beneficiaries to use CHAMPUS rather than the direct care system, leaving some medical facilities underutilized. Bringing civilians into military medical facilities under personal service contracts will make more efficient use of existing military medical facilities while at the same time reducing the use of CHAMPUS. The committee notes that the authority included in this provision is similar to the authority already provided to the Administrator of the Veterans Administration.

The committee intends to ask the General Accounting Office to review all new contracts awarded under this new authority and to determine to what extent savings have been achieved in the CHAMPUS program as a result of this provision.

MILITARY HEALTH CARE

A. Demonstrations and studies of health care delivery systems

The committee has been concerned for some time with the variety and escalating costs of care available to eligible beneficiaries in the military health care system. Specifically, the committee believes that the Department of Defense has been hampered in its ability to explore alternative health care delivery programs which could provide better care at less cost because there exist no permanent authority in law to perform the necessary studies or demonstration projects.

Therefore, the committee recommends several provisions to provide DoD authorities with sufficient administrative flexibility to conduct appropriate studies and demonstrations to improve the types and quality of care and to develop incentives for economy in the administration of health care. Under this provision, the Secretary of Defense will be able to conduct studies and demonstration projects including, but not limited to: (1) alternative methods of payment for ehalth and medical care services, (2) cost-sharing by eligible beneficiaries, (3) methods of encouraging efficient and economical delivery of health and medical care services, (4) innovative approaches to the delivery and financing of health and medical services, and (5) alternative approaches to reimbursement for the administrative charges of health care plans. Further, the Secretary could enter into contracts with public or private agencies, institutions, and organizations to develop and conduct these studies and projects.

B. Dental care study

Currently, dependents of active duty service members are authorized extremely limited dental care under CHAMPUS and in

uniformed services medical facilities. Normally, dental care is provided only when it is performed as a necessary adjunct to medical or surgical treatment.

Dental care insurance plans are not available to most dependents of active duty members. In addition, the cost of private dental care is prohibitive for many families, especially those of junior enlisted personnel. As a result, there are some indications that the level of untreated dental disease among dependents may be higher than exists in the general population.

In view of the current constraints on spending, it appears unlikely that the Congress will authorize a dental CHAMPUS plan in the near future. The Department of Defense should, however, consider various alternatives in order to make adequate dental care available to dependents of active duty service members. Therefore, the committee directs the Department of Defense to study the feasibility of establishing a voluntary dental care insurance plan that would be available to those who wish to participate in such a program. Further, the Department should study whether uniformed services medical facilities could provide routine care on a standby basis. The committee believes that a number of these facilities are under-utilized, such as during ship and unit deployments.

In order to take appropriate action during the next fiscal year, the committee directs that the Secretary of Defense report the findings and recommendations of this study to the committee by February 1, 1983.

C. Defense Health Agency.

The Subcommittee on Manpower and Personnel held hearings on May 5, 1982, and May 26, 1982, at which the Acting Assistant Secretary of Defense for Health Affairs and the Surgeons General of the Military Departments were requested to address the specific areas of medical readiness, management of peacetime health care delivery, and quality assurance. As a result of these hearings, the committee is concerned over the inability of the Department of Defense to provide adequate wartime medical support for the armed services and over the publicized problems in assuring the quality of care in military hospitals. This concern was heightened by the inability of the Defense Department and the services to define the elements of an aggregate estimated to exceed $7 billion in health-related items in the fiscal year 1983 budget request. Despite this enormous cost and the mission of the Medical Departments, the Subcommittee received testimony that the Department of Defense could provide emergency surgical care for only 1 casualty in 10 who would need such care if a NATO/Warsaw Pact conflict were to occur today.

In view of these findings, the committee directs the Secretary of Defense to study the feasibility and benefits to be gained by creating a Defense Health Agency modeled after existing Defense agencies.

As envisioned by the committee, the Assistant Secretary of Defense for Health Affairs would be given the overall supervision of the health affairs of the Department of Defense as required by section 136(b) of title 10. This authority could be modeled after the present relationship between the Defense Logistics Agency and the

Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics, who exercises "direction, authority, and control" as described in DoD Directive 5105.22. Such a relationship would permit the Assistant Secretary of Defense for Health Affairs to exercise policy-level supervision while operational responsibility would reside with the Director, Defense Health Agency.

The mission of the Defense Health Agency would be to function as an overall, tri-service management element of the defense health services system to support the mission of the military departments and the unified and specified commands under all conditions of peace and war. The Director, Defense Health Agency, would be an active duty medical flag or general officer who could also have a relationship with the Chairman, Joint Chiefs of Staff similar to that of the Director, Defense Intelligence Agency. This would insure an operationally responsive, single management system for all defense health services in the United States during wartime, and thereby correct a prominent deficiency in the current management scheme. The Director, Defense Health Agency, would be responsible for the management of all medical research and development, all fixed health services facility construction, and all post-graduate clinical programs. Planning, programming, and budgeting for the operation of the Defense Health Agency and CHAMPUS would be accomplished as it is for the other Defense agencies.

The Surgeons General would continue to report to the service chiefs and would be singularly responsible for service-unique operational medical support. Because the Defense Health Agency would manage the delivery of peacetime health services, the Surgeons General would no longer be forced to face competing priorities between readiness and peacetime health services. The major responsibilities of the Surgeons General would include, but not be limited to: career development for health services personnel; development of doctrine for operational medical support; design, acquisition, and planning for the use of deployable medical support systems; and generation or validation of all requirements for manpower, facilities, equipment, supplies, and medical research and development needed to support their respective service in wartime. The health services training schools would be under the supervision of the Surgeons General. The Military Departments would continue to plan, program, and budget for those functions for which the Surgeons General remain responsible.

D. Quality of military health care

A recent series of articles and news broadcasts have given many people the impression that there is little quality assurance in the military health services system.

One indicator of the quality of care is the incidence of malpractice suits resulting in judgment against the government. Another is the dollars amount of the settlements. In 1980, 79 litigated judgments against the government resulted in $10.5 million paid to plaintiffs. In 1981, however, there were 123 litigated judgments costing a total of $15 million. This data does not include claims settled administratively by each service.

Another indicator of the quality of care is the number of providers whose credentials are restricted or suspended. This indicator is

influenced by two important factors; the effectiveness of the credentials review process itself and the quality of the providers. If either process is bad or the providers are good, there will be few credentials restricted. In 1980, the credentials of 41 Navy and Air Force physicians were limited, suspended or revoked; there were 42 in 1981. Figures for the Army are unavailable.

One more way to judge quality of care is to survey both patients and providers for their subjective assessments. In a recent non-government survey, 56 percent of the physicians surveyed termed military health care "worse" or "much worse" than in the civilian world. The Department of Defense does not routinely monitor beneficiary satisfaction above the level of individual facilities.

The committee is concerned about the control, supervision and responsibility in the quality of care area. Since malpractive claims are not paid from health appropriations, there is little management interest in insuring that the conditions which lead to malpractice suits are prevented.

The committee therefore directs the Surgeon General and Judge Advocate General of each service to make an annual report to the Armed Services Committees of the Senate and House of Representatives on medical malpractice statistics, Joint Commission of Accreditation of Hospitals accreditation of each service's hospitals and the viability and success of each service's Quality Assurance/ Risk Management Program.

E. Cost containment

Recent cost overruns in the CHAMPUS program and mounting costs per unit of output in the military health services systems have convinced the committee that more attention should be given to the development and implementation of methods and procedures to control costs.

While it is recognized that the cost of the CHAMPUS program is directly affected by the rapidly rising costs of health care in the civilian sector, management improvements can be made to minimize their impact on CHAMPUS. Greater emphasis on program integrity, productivity and over-utilization of health care services can have significant impact on cost containment. The committee is concerned that in fiscal year 1976 the direct care system had an average daily inpatient load of 17,701 and provided 50.6 million outpatient visits with a total of 10,879 military physicians. In contrast, in fiscal year 1981, with 12,066 physicians, only 47.4 million outpatient visits were provided and the average daily inpatient load was down to 14,734. It appears that during a period when more doctors were in the system, a greater number of military beneficiaries were diverted to the more expensive CHAMPUS program.

The committee is convinced that the military departments can do much to reduce the costs of the CHAMPUS program, while at the same time improving the productivity and cost per unit of output in the direct care systems. Health care facility commanders must recognize that their decisions to, in effect, shift workload to CHAMPUS have an indirect impact on their own hospital budgets because CHAMPUS care consumes a greater share of the total funds available for defense.

PAYMENTS TO REPLACE CERTAIN TERMINATED SOCIAL SECURITY BENEFITS

Until 1981, the surviving spouses and children of deceased workers with Social Security coverage were eligible for the so-called mother's benefit and the student benefit. The mother's benefit was paid to the surviving parent of a child or children until the youngest child reached age 18. The children of retired, disabled or deceased workers were eligible for the student benefit if they were between the ages of 18 and 22 and attending school on a full-time basis. Since January 1, 1957, when military personnel began to participate in the Social Security system, their survivors have been eligible for the same mother's benefit and student benefit paid to the survivors of covered civilian workers.

Enacted into law on August 13, 1981, the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) made significant changes in these two benefits. Section 2205 discontinued payment of the mother's benefit at the point at which the youngest child reached age 16, instead of age 18. Payments to parents eligible for the mother's benefit for the month of enactment of the 1981 Reconciliation Act are not to be ended until September 1983.

Section 2210 of the 1981 Reconciliation Act provided that the student benefit would not be paid to new beneficiaries after August 1982. However, students 18 or older who were entitled to Social Security child's benefits in August 1981 and who began post-secondary school before May 1982 are eligible to continue receiving student benefits. The amounts of their benefits are not to be adjusted for changes in the cost-of-living after August 1981. In addition, beginning in August 1982, their benefit levels are to be reduced each year by 25 percent of the August 1981 level. Finally, no benefits are to be paid to these post-secondary students during the four summer months, beginning in 1982.

Among the many Social Security beneficiaries affected by these changes are the surviving spouses and children of serfvicemen who died on active duty or later as a result of service-connected disabilities. On August 10, 1982, the Manpower and Personnel Subcommittee received testimony from Mrs. Madeline Van Wagenen, a representative of a group of such military survivors. Mrs. Van Wagenen testified that Social Security benefits formed an important part of the package of pay and benefits which were offered to servicemen to encourage them to join and remain in the military. Various Defense Department publications distributed to recruits and new officers describe the protection afforded their families by the Social Security system if they should die on active duty or later as a result of a service-connected disability. Mrs. Van Wagenen explained that the use of Social Security benefits by the military services to recruit and retain personnel constituted a commitment upon which military families relied in their estate planning.

The committee believes that the federal government should restore the Social Security benefits which were initially promised but then later denied the survivors of servicemen. Therefore, the committee recommends a provision which would authorize funds for the restoration of benefits comparable to the Social Security mother's benefit and the student benefit. Payment of these benefits

would be renewed to the surviving spouses and children of military personnel who died on active duty before August 13, 1981, or who died later as a result of a service-connected disability incurred or aggravated before August 13, 1981.

The provision restores the mother's benefit to the surviving parent of a child between the ages of 16 and 18 at the level paid prior to the enactment of the 1981 Reconciliation Act. Future adjustments of this benefit after December 31, 1981, would be the average of the adjustments made by legislation in the Dependency and Indemnity Compensation paid by the Veterans Administration.

Like the mother's benefit, the student benefit would be restored to eligible post-secondary students between the ages of 18 and 22 at the level paid prior to the enactment of the 1981 Reconciliation Act. This benefit would be adjusted after December 31, 1981, by the average of the adjustments provided by legislation in the Veterans Administration educational assistance program of title 38, United States Code.

The provision recommended by the committee requires the Department of Defense to fund the restoration of these two benefits. The authority to designate the appropriate federal agency to administer the benefits is left entirely to the President.

The committee believes that the commitment made to the men and women who endured the unique hardships of military service justifies the restoration of these benefits. The families of servicemen who died or were disabled in the line of duty should be afforded the protection they were promised.

CLARIFICATION OF 10 U.S.C. 138

Section 701 is disigned to clarify section 138 of title 10, United States Code. Section 138 prohibits the Secretary of Defense from obligating or expending funds for the following unless such funds "have been specifically authorized by law":

(1) procurement of aircraft, missiles, or naval vessels;

(2) any research, development, test, or evaluation, or procurement or production related thereto;

(3) procurement of tracked combat vehicles;

(4) procurement of other weapons;

(5) procurement of naval torpedoes and related support equipment;

(6) military construction;

(7) the operation and maintenance of any armed force or of the activities and agencies of the Department of Defense (other than the military departments);

(8) procuement of ammunition; or

(9) other procurement by any armed or by the activities and agencies of the Department of Defense (other than the military departments).

Congress enacted section 138 because of its desire to have authorizing committees review individual programs contained in the Defense budget in greater detail than was previously the case. The language of Section 138 and the accompanying legislative history leave little doubt that Congress intended that two conditions be met before the Secretary of Defense would be permitted to obligate

certain defense funds—namely, that Congress specifically authorize such funds and then that Congress specifically appropriate such funds. Despite the unambiguous language of Section 138, there was in fiscal year 1982 some confusion about whether the Secretary of Defense could obligate money for certain defense programs for which funds had been appropriated in the fiscal year 1982 Department of Defense Appropriations Act, but not authorized in the fiscal year 1982 Department of Defense Authorization Act. As indicated previously, section 138 expressly prohibits the Secretary of Defense from obligating or expending funds which have not been specifically authorized by law. Although it is arguably unnecessary since, section 701 of this bill is designed to remove any doubt about the legislative intent of section 138.

PROTECTION OF REPORTS OF MILITARY AIRCRAFT ACCIDENT SAFETY INVESTIGATIONS

The authority of the Secretary concerned, with respect to any accident involving an aircraft of his armed force, to conduct a safety investigation needs to be clarified. It has been the experience of the Department of Defense that individuals (regardless of whether they are members of the armed forces, civilian employees of the government, or employees of a contractor) are extremely reluctant to admit negligence if they fear their statements may later be used against them, their superiors, or their employers. This is also true in cases where military members or government employees are asked to divulge unfavorable information about their co-workers. Similarly, the armed forces frequently need the vast knowledge of the technical representatives of manufacturers whose products are involved in aircraft accidents in order to insure that the investigation is complete.

In the interest of saving lives and protecting expensive national defense resources through accident prevention, the committee recommends that certain parts of military aircraft accident safety reports be protected from unnecessary public disclosure. Enactment of this recommendation will provide a Congressional statement of policy that will take the issue out of the arena of individual judicial assessment of the validity of this policy. Although the proposal does not amend the Freedom of Information Act, it will place aircraft safety reports within the purview of section 52(b)(3) of title 5, United States Code, the exemption pertaining to withholding of records whose release is otherwise prohibited by statute.

CONTRACTING OUT OF COMMERCIAL AND INDUSTRIAL-TYPE ACTIVITIES

Concern has been expressed over the possibility that the Commercial Activities Program, which implements OMB Circular A-76 in the Department of Defense, might adversely affect the Department's capability to meet national defense needs. Section 602 directs the Secretary of Defense to insure that contract performance of the activities selected for cost comparisons will not adversely affect military readiness, and clarifies the Secretary's authority to make such determinations. This section also provides guidance for the Secretary in making a determination whether or not a specific activity can be considered for contract performance.

Subsection (d)(1) describes four criteria that can be used to determine whether an activity operated solely by military personnel can be authorized for continuation without a comparative cost study. In these cases, performance by military personnel will normally contribute to the strength of our national defense capability.

Subsection (d)(2) stresses the importance of maintaining adequate depot and intermediate level maintenance capability for weapons systems and equipment for all contingencies. It also recognizes current DoD reliance on contractors for maintenance support, and emphasizes that the combination of organic and contract maintenance capabiity must meet all operational requirements.

Subsection (d)(3) summarizes concerns that have been expressed within the Congress and calls on the Secretary of Defense to insure that the military services do not contract out any functions which must be performed by government employees in order to maintain national defense capabilities.

Subsection (d)(4) precludes from consideration for contracting-out functions which are so essential for safety or security (i.e. internal security for highly classified weapons) that they must be performed by military or government personnel. This provision is not intended to preclude the contracting out of all base security and firefighting functions subsequent to the expiration of the prohibition on contracting out firefighting and base security functions contained in the fiscal year 1983 Defense Authorization Act. The Secretary of Defense or his designee should make the necessary determinations on a case by case basis after the one-year prohibition expires.

Subsection (e) requires that the assessment of military commanders of major commands of the feasibility of contract performance of activities scheduled for study be forwarded by the Secretary as part of the advance notification required by subsection (a)(2)(A). This provision is intended to insure that the professional opinion of the military commander on the essential nature of government performance for national defense is considered by the Secretary and available to Congress. When the military commander agrees with the Secretary of Defense that a function can be safely performed by contract, there should be no question of impact on national defense.

Subsection (f) calls for a full and complete accounting of costs for both government and contractor performances to insure that decisions based on cost studies actually reflect the best interests of the government and the taxpayers. The conduct of cost comparisons constitutes a significant cost to the government. There should be some recognition of these costs to insure that appropriate benefits are realized. In order to improve the accuracy and validity of cost comparisons, the Secretary of Defense should:

(1) Develop guidelines for allocating the costs of the cost comparisons to the potentially benefiting party—to the contract side of the comparison when the work is being performed by the government and to the government side of the comparison when the work is being performed by contract. These costs should not include any normal management costs of the Department of Defense, but only those which have no benefit to the government other than selection of the least cost alternative.

(2) Work with the Office of Management and Budget and the Office of Personnel Management to insure that the factors used for government costs include the full cost on a dynamic normal cost basis.

Subsection (h) requires the Secretary to develop a procedure for determining whether new requirements can be performed more economically by contract or by government employees. This method need not be as detailed as the current cost comparison procedure but should involve accepted management and cost analysis procedures.

Finally, under current contracting-out regulations in the Defense Department, the committee notes that the contractor, under a fixed price contract, must accept many risks and potential penalties which cannot be applied to government activities. The Congressional Budget Office has indicated that the current use of cost differentials favoring either in-house or contract performance of current government activities is highly subjective and that no basis exists to evaluate its reasonableness. In view of this finding and the shift of cost comparison study costs to the contractor, the committee directs the Office of Management and Budget to review the appropriateness of continuing to appy this differential to the contractor.

NONAPPROPRIATED FUND EMPLOYEE PROTECTION

The Civil Service Reform Act of 1978 (Public Law 95–454) provided statutory protection from reprisals to Federal employees who disclose illegal or wasteful activities. However, the "whistleblower" provisions in the 1978 Act applied only to civil service employees. Therefore, 195,000 nonappropriated fund employees in the Department of Defense are not covered by this legislation and, consequently, are not protected from reprisals when they report fraud, waste, or mismanagement. These employees manage and operate the military clubs, package stores, exchanges, and morale, welfare and recreation programs used by soldiers, sailors, and airmen.

In fiscal year 1980, nonappropriated fund activities ranked first in the number of potential fraud cases referred to Department of Defense investigative agencies, ahead of such functions as procurement and property disposal. In practice, auditors and investigators seldom discover waste, fraud and abuse by reviewing financial records. Instead, the majority of cases of corruption, bribes, and kickbacks are uncovered through information volunteered by concerned employees. Protecting nonappropriated fund employees, therefore, would significantly contribute toward curtailing illegal and unethical activities.

The committee recommends that the protections extended to Federal employees who report waste, fraud, and abuse also be extended to nonappropriated fund employees. Such protections, the committee believes, will enhance on-going government efforts to uncover and deter illegal and unethical practices.

The language recommended by the committee is identical to the provisions of H.R. 4624 which was passed by the House of Representatives on November 5, 1981.

INCREASE IN DEATH AND DISABILITY COMPENSATION FOR CIVIL AIR PATROL MEMBERS

The committee proposes two significant changes in the death and disability compensation paid to members of the Civil Air Patrol. The first change authorizes coverage under the Federal Employees Compensation Act (FECA) for junior Civil Air Patrol cadets who are between the ages of 18 and 21 for injury or death which occurs while they are performing an operational mission under the direction of the Air Force. At present, only senior members of the Civil Air Patrol are covered. The second change increases the monthly pay rate used for computing compensation for disability or death for covered Civil Air Patrol members from the current figure of $300 to the minimum (step 1) rate of a GS–9 Federal civilian employee. In this regard, the committee notes that the deemed compensation of the counterpart Coast Guard search and rescue volunteer personnel, the Coast Guard Auxiliary, was also increased to the minimum rate of a GS–9 in December 1981 with enactment of Public Law 97–136.

The committee understands that the Administration has formally expressed its support for S. 1931 and H.R. 1857, companion bills which are identical in substance to this provision. These changes constitute much needed improvements in the coverage available to members of this volunteer program who make a significant contribution to search and rescue efforts throughout this country.

OPERATING PROCEDURES FOR NAVY BRIGS AND CORRECTIONAL CUSTODY UNITS AND NOTIFICATION PROCEDURES FOR NEXT-OF-KIN IN DEATHS OF NAVAL PERSONNEL

The committee is aware of the Navy's efforts to implement changes in the formal Instructions for the administration and operation of brigs and correctional custody units (CCUs), the major detention/correctional facilities for Navy and Marine Corps personnel subject to the Uniform Code of Military Justice. The regulatory changes resulted from ongoing evaluations of these facilities and from concerns prompted by the tragic and unfortunate events on the U.S.S. RANGER.

An internal Navy study found that the administration and operations of brigs and CCUs was inconsistent throughout the service, including non-standard training of CCU overseer personnel and absence of coherent counseling and training for brig prisoners. The new Instructions issued by the Chief of Naval Operations on September 24, 1981, were intended to redress these and other identified problems.

The events on the U.S.S. RANGER also focused public and Navy attention on the Navy's procedures to notify and inform next-of-kin about circumstances surrounding the deaths of naval personnel. The Navy also has issued changes to its procedures in this area to improve the timeliness and completeness of such notifications.

The Committee believes that full implementation of the new brig/CCU Instructions and the changes in the next-of-kin notification procedures should be accomplished as soon as possible. To ensure this objective, the Secretary of the Navy shall submit, no later than February 1, 1983, a progress report on the implementa-

98-771 O—82——5

tion of these new Instructions and procedures. Such a report should include a detailed description of the implementation process and the extent to which the changes will be implemented by the report submittal date, and explanation of any delays, a specific timetable for completion of the implementation process, and the specific means by which the Navy intends to ensure continuing compliance with the new Instructions and procedures in the future.

SECTION-BY-SECTION ANALYSIS OF S. 2936

"To provide a 4 percent increase in the pay and allowances of members of the uniformed services, to make changes in certain elements of military compensation and in certain personnel programs, and for other purposes."

The purpose of the bill, which is composed of eight titles, is as stated in its title.

Title I of the bill addresses compensation matters. Section 101 of the bill would prevent the automatic adjustment to elements of military compensation which would otherwise be required to be made by section 1009 of title 37, United States Code, and would provide that, effective with the first pay period beginning after September 30, 1982, the elements of military compensation would be increased by four percent. However, no increase in any element of compensation for members in pay grade E–1 would be made. Furthermore, the President would retain his authority under subsections (c) and (d) of section 1009 of title 37, United States Code, to allocate up to 25% of the increase in basic pay among the other elements of military compensation and to allocate up to 25% of the increase in basic pay for any grade and years-of-service category among other grades (except E–1) and years-of-service categories.

Section 102 of the bill would extend the authority for the payment of a reenlistment bonus under section 308 of title 37, United States Code, and an enlistment bonus under section 308a of title 37, United States Code, through September 30, 1983. The authorities for the payment of these bonuses are scheduled to expire on September 30, 1982.

Section 103 of the bill would extend for one year, from September 30, 1982, until September 30, 1983, the authority, under certain circumstances, to pay special pay to aviation career officers who extend their period of active duty. Presently there is authority for the payment of this special pay in section 301b of title 37, United States Code. Section 103 of the bill would amend section 301b of title 37 to continue until September 30, 1983, the present prohibition against paying this special pay to other than officers of the Navy and Marine Corps. Additionally section 103(a) of the bill would amend section 301b(e) of title 37 to provide that during the period October 1, 1982, through September 30, 1983, this special pay may be paid only to officers who have at least six but less than eleven years of active duty, who have completed the minimum service required for aviation training, who have not previously been paid the special pay authorized by section 301b of title 37, and who agree to remain on active duty in aviation service for three, four, or six years. A qualified officer who agrees to remain on active duty for three years could be paid up to $4,000 per year for

each of those three years; an officer who agrees to remain on active duty for four years could be paid up to $6,000 for each of those four years. Agreements which provide for an officer to remain on active duty for six years could only be accepted from otherwise qualified officers with less than seven years active duty and would permit an officer executing such an agreement to be paid up to $6,000 for each year of that six year agreement. Furthermore, effective October 1, 1982, any officer who is receiving the special pay authorized by 301b of title 37 may not receive, during the period for which the special pay is paid, hazardous duty incentive pay authorized by section 301 of title 37.

Section 103(d)(1) of the bill would express the sense of Congress that the special pay for aviation career officers under section 301b of title 37, United States Code, should only be paid to officers who are likely to be induced by such pay to stay on active duty in aviation service.

Section 103(d)(2) of the bill would require the Secretary of the Navy to submit by July 1, 1983, a written report, approved by the Secretary of Defense, explaining and evaluating the use and usefulness of this special pay for aviation career officers after October 1, 1982.

Section 104 of the bill would permit the furnishing of transportation allowances to a dependent child who is accompanying a member-parent at a permanent overseas duty station to permit the child to return to the United States to attend college. This would be accomplished by adding a new section 430 at the end of chapter 7 of the title 37, United States Code. That new section 430 would specially provide that these transportation allowances only could be provided if the member would be entitled, upon being ordered to make a change of permanent station, to the travel and transportation allowances authorized by section 401(a)(1) of title 37 for the dependent child. Furthermore, new section 430 would provide that if the allowances authorized by that new section are furnished, the member would not be entitled to the allowances authorized by section 401(a)(1) of title 37 for that dependent, to which the member otherwise would be entitled when ordered to make a permanent change of station from the overseas duty station.

Section 105 of the bill would amend sections 1036 and 1040 of title 10, United States Code, to provide that the travel and transportation allowances payable under those sections could be paid in advance. Section 1036 of title 10 authorizes the payment of travel and transportation allowances to escorts traveling with dependents of members who have died, are missing, or otherwise are unable to accompany the dependents. Section 1040 of title 10 authorizes the payment of travel and transportation allowances to attendants needed to accompany dependents who must travel to receive needed medical care.

Section 106 of the bill extends for one year, until September 30, 1983, the present authority to reimburse any member of the uniformed services on sea duty for expenses incurred in obtaining alternate quarters when that member is deprived of on-board quarters because of repairs or other conditions which make those on-board quarters uninhabitable. That authority is presently contained in section 7572(b) of title 10, United States Code, and in sec-

tion 3 of Public Law 96-357. Additionally, section 106 of the bill would provide that total reimbursements under this authority may not exceed $4,000,000 for fiscal year 1983.

Section 107 of the bill would generally freeze the payment of certain allowances during fiscal year 1983 at the rates payable, or to categories of persons eligible for such allowances, during fiscal year 1982 or 1981. Specifically, section 107(1) of the bill would direct that, during fiscal year 1983, the rate for dependents for the monetary allowance in lieu of transportation, payable under section 404(a) of title 37, United States Code, shall not exceed the rate in effect for such allowance in October 1, 1982. Section 107(2) of the bill would direct that, during fiscal year 1983, the weight allowances for transportation of baggage and household effects prescribed under the authority of section 406(b) of title 37 may not exceed those weight allowances in effect on October 1, 1981. However, section 107(2) of the bill would permit the weight allowances for members in pay grades E-7, E-8, or E-9 to be increased by not more than 1,500 pounds above the allowances in effect on October 1, 1981, for those grades. Section 107(3) of the bill would provide that the regulations prescribed for determining whether permission to mess separately may be granted for purposes of paying a basic allowance for subsistence under section 402(b) of title 37 may not be changed, in fiscal year 1983, so as to permit the granting of that permission to any category of members that was not eligible for such permission on October 1, 1982. This section of the bill would not prevent individuals from being granted permission to mess separately during the fiscal year if those members entered a category which, on October 1, 1982, was eligible for such permission.

Section 108 of the bill would clarify the authority to pay a monetary allowance for the transportation by a member of a motor vehicle to a port of embarkation and from a port of debarkation when the Secretary concerned has authorized transportation of that motor vehicle under section 2634 of title 10, United States Code. Presently, the third and fourth sentences of section 406(b)(1) of title 37, United States Code, provide that when transportation of a motor vehicle has been authorized under section 2634 of title 10 (usually water transportation between the United States and overseas), a member is entitled to a monetary allowance for the transportation of that motor vehicle to the port of embarkation of the vehicle and from the port of debarkation of the vehicle. Generally, the transportation of such a motor vehicle occurs either as a separate trip by the member to the port of embarkation of the vehicle solely for the purpose of delivering the vehicle for shipment, or in conjunction with the member's official travel from his old duty station to the member's port of embarkation for transportation overseas. However, the existing language in section 406(b)(1) of title 37 is unclear and subject to variations not intended. To clarify the intent of this entitlement provision, section 108 of the bill would strike out the existing third and fourth sentences in section 406(b)(1) and create a new paragraph under that subsection to more clearly define the entitlement.

Specifically, the new paragraph, which would be section 406(b)(1)(B) of title 37, would provide that whenever transportation under section 2634 of title 10 has been authorized for an appropri-

ate motor vehicle, the member would be entitled to a monetary allowance for transportation of the vehicle from the old duty station to a customary port of embarkation, the location of which will be determined based upon whether that transportation occurs as a separate event or in conjunction with the members official travel and upon overall cost effectiveness to the Government. Additionally, the allowance would be for transportation of the vehicle from the customary port of debarkation designated by the Government as most cost effective, considering all travel, transportation, and operational requirements, to the new duty station.

More specifically, section 406(b)(1)(B) of title 37 would provide that the allowance for transportation of the motor vehicle to the port of embarkation could be based on the distance between the old duty station and the customary port of embarkation nearest that duty station if the transportation is performed separate from the member's travel or on the distance between the old duty station and the customary port of embarkation for motor vehicles nearest the member's port of embarkation when transportation of the motor vehicle occurs in conjunction with the member's travel. The determination of which of these possible ports of embarkation will be used to figure the allowance would be based upon overall cost effectiveness to the Government, based upon all operational, travel, and transportation requirements. Finally, the new paragraph (B) of section 406(b)(1) would continue the present requirements that the allowance be established at a rate per mile that does not exceed the rate established under section 404(d)(1) of title 37.

Title II of the bill, which contains two sections, addresses retired pay matters. Section 201 of the bill would effectuate the rounding down to the next lower whole dollar of the amount of military retired pay and survivor annuities as determined under various sections of title 10, United States Code, and other provisions of law. Under the amendments which would be made by section 201 of the bill, whenever an amount of retired pay or a survivor annuity is computed under a provision of law affected by the amendments, if that computed amount is not a multiple of one dollar, the amount will be rounded down to the next lower multiple of one dollar. Subsection (a) of section 201 of the bill would amend the following provisions of title 10, United States Code, to require such rounding down of amounts of retired pay or survivor annuities computed under these provisions: section 1401(a), 1401a, 1402(a), 1402(d), 1402a(a), 1402a(d), 3991, 3992, 6151, 6383, 8991, and 8992, chapter 571, and subchapters I and II of chapter 73.

Subsection (b) of section 201 of the bill would amend section 423(a) of title 14, United States Code, which relates to computation of retired pay for members of the Coast Guard, to require that the amounts computed under that section be rounded down to the next lower multiple of one dollar. Subsection (c) of section 201 of the bill would amend section 16(a) of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 8530), which relates to the computation of retired pay of commissioned officers of what is now the National Oceanic and Atmospheric Administration, to require that amounts computed under that provision of law be rounded down to the next lower multiple of one dollar. Subsection (d) of section 201 of the bill would amend section 211(a) of the Public

Health Service Act (42 U.S.C. 212(a)), which relates to the computation of retired pay of commissioned officers of the Public Health Service, to require that amounts computed under that provision of law be rounded down to the next lower multiple of one dollar.

Subsection (e) of section 201 of the bill would establish two effective dates for the amendments which would be made by subsection (a)–(d) of the section. In the case of persons who first become entitled to retired or retainer pay on or after January 1, 1983, the amendments would apply on and after January 1, 1983. In the case of all other persons (that is, those who first become entitled to retired or retainer pay before January 1, 1983) the amendments would become effective and apply on and after April 1, 1983.

Section 202 of the bill would repeal the one year look-back provision now contained in section 1401a(e) of title 10, United States Code. While subsection (a) of section 202 of the bill would effectuate an immediate repeal of section 1401a(e) of title 10, subsection (b) of section 202 of the bill would establish limited grandfather and save pay clauses. Specifically, subsection (b)(1) of section 202 of the bill would provide that, notwithstanding the repeal of the one year look-back provision, in the case of any person who is eligible to retire on the date of enactment of the bill, such look-back provision shall remain eligible for the use by such person if that person does, in fact, retire and become entitled to retired pay within three years of the date of enactment of the bill. Subsection (b)(2) of section 202 of the bill would further provide that in the case of a member or former member who was eligible to retire on the date of enactment of the bill, and who does, in fact, retire and become entitled to retired pay at any time after that date of enactment, the retired pay of such a member or former member will not be less than it would have been had such member or former member retired on the day before the expiration of the three year period beginning on the date of enactment of the bill.

Title III of the bill, which contains five sections, addresses personnel management matters. Section 301 of the bill addresses the total number of commissioned officers who may be on active duty above the grade of colonel in the Army, Air Force, and Marine Corps and above the grade of captain in the Navy during fiscal year 1983. Section 811(a)(1) of the Department of Defense Appropriation Authorization Act, 1978, provided that after October 1, 1981, the total number of such commissioned officers on active duty may not exceed 1073. Subsection (a) of section 301 of the bill would not repeal that permanent ceiling, but would, during fiscal year 1983, permit that ceiling to be exceeded by 27 additional officers. That is, during fiscal year 1983, a total of 1100 such officers would be permitted on active duty. Subsection (b) of section 301 of the bill would provide that of the 27 additional officers permitted to be on active duty by subsection (a) of that section of the bill, not less than seven of these officers shall be in the Navy and not less than two shall be in the Marine Corps.

Section 302 of the bill would amend section 716 of title 10, United States Code, and section 3(a)(13) of the Act of August 10, 1956 (33 U.S.C. 857a(A)) to permit and facilitate transfers of commissioned officers of the Public Health Service (PHS) to other uniformed services. Subsection (a)(1) of section 302 of the bill would

amend section 716 of title 10, which now permits and provides rules for the transfer of a commissioned officer of an armed force or of the National Oceanic and Atmospheric Administration (NOAA) to another armed force or the NOAA. Subsection (a)(1) of section 302 of the bill would completely revise existing section 716 of title 10 to permit and provide rules for the transfer of a commissioned officer of any uniformed service to another uniformed service. The term "uniformed service" would mean the Army, Navy, Air Force, Marine Corps, Coast Guard, NOAA, and Commissioned Officer Corps of the PHS. Under section 716(b), as it would be amended by the bill, an officer transferred from one uniformed service to another could not be granted precedence or relative rank higher than that which that officer held on the day before the transfer. Subsection (c) of section 716, as it would be amended by the bill, would provide special rules concerning transfers from NOAA and the PHS. Paragraph (1) of that subsection would provide that a commissioned officer who had previously served on active duty in NOAA or PHS and who transfers to another uniformed service would be credited with, for purposes of determining that officer's eligibility to retire and the amount of such officer's retired pay, the number of years service with which he was credited on the day before the termination of his previous active duty in NOAA or PHS. Paragraph (2) of that subsection would provide that for the purpose of determining the grade and rank within grade of a PHS officer to transfer to one of the armed forces, the Secretary having jurisdiction over the armed force concerned may, under regulations of the Secretary of Defense, credit such an officer with any period of active commissioned service performed by such officer as a commissioned officer in PHS.

Subsection (a)(2) of section 302 of the bill would make a technical and comforming change to the table of sections at the beginning of chapter 41 of title 10 by amending the item relating to section 716 to reflect the change in the heading of that section made by subsection (a)(1) of section 302 of the bill.

Subsection (b) of section 302 would also make a technical and conforming change to clause (13) of section 3(a) of the Act of August 10, 1956 (33 U.S.C. 857a(a)), to reflect in that clause the amended section heading for section 716 of title 10, United States Code, which would result from the amendments made by subsection (a)(1) of section 302 of the bill.

Section 303 of the bill relates to the period of time during which certain accumulated leave may be used. Section 701(f) of title 10, United States Code, permits, under certain conditions, the accumulation by members of 90 days leave rather than the normal 60 days leave. Under the last sentence of that section, leave in excess of 60 days which is accumulated will be lost unless it is used by the end of the fiscal year after the fiscal year in which the service permitting the additional accumulation of leave terminates. Subsection (a) of section 303 of the bill would change that rule to provide that leave in excess of 60 days accumulated under section 701(f) of title 10 would be lost unless used before the end of the third fiscal year after the fiscal year in which the service permitting the additional accumulation of leave terminates.

Subsection (b) of section 303 of the bill would provide for an effective date for the amendment made to section 701(f) of title 10 and would reinstate accumulated leave lost under the provisions of section 701(f) of title 10, as it existed before that amendment. Specifically, subsection (b)(1) of section 303 of the bill would provide that the amendment made to section 301(f) of title 10 would be effective upon enactment and would apply to any leave accumulated after September 30, 1979, under that section. Subsection (b)(2) of section 303 of the bill would provide that any member who accumulated leave in excess of 60 days under the authority of section 701(f) of title 10 and who then lost leave at the end of fiscal year 1981 or 1982 because of the provisions of section 701(f) of title 10, as it existed before the amendment which would be made by subsection (a) of that section of the bill, shall be credited with that lost leave and will have until the end of the third fiscal year after the fiscal year in which that leave was first accumulated to use the leave in excess of 60 days. However, in no case may any such member have more than 90 days accumulated leave to his credit. Finally, subsection (b)(3) of section 303 of the bill would repeal section 404 of the Department of Defense Authorization Act, 1983. That provision of law directed that persons accumulating leave under section 701(f) of title 10 during fiscal year 1980 who lost that leave at the end of fiscal year 1981 be credited with that lost leave and be permitted to use that leave until October 1, 1982. The provisions of subsections (a), (b)(1), and (b)(2) of section 303 of the bill would make this provision unnecessary.

Section 304 of the bill would amend section 532 of title 10, United States Code, by adding to that section a new subsection (e). Section 532 of title 10 establishes qualifications for original appointments as commissioned officers. The new subsection (e) would provide that, under regulations prescribed by the Secreatary of Defense, the Secretary concerned could waive the age requirements mandated by subsection (a)(2) of such section 532 because of exceptional or unusual circumstances and because the person with respect to whom the waiver is made has a particular skill needed by the armed force concerned. Subsection (a)(2) of such section 532 requires that a person to be given an original appointment as a commissioned officer in the Regular Army, Navy, Air Force, or Marine Corps must be able to complete 20 years of active commissioned service before his fifty-fifth birthday. The new subsection (e) would permit waiver of that requirement in apporpriate cases.

Section 305 of the bill would increase from seven to ten the number of Assistant Secretaries of Defense and direct that one of these ten Assistant Secretaries be the Assistant Secretary of Defense for Command, Control, Communications and Intelligence, having as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department. These changes would be accomplished by subsection (a) of section 305 of the bill amending section 136 of title 10, United States Code.

Subsections (b) and (c) of section 305 of the bill would increase from four to five the number of Assistant Secretaries of the Army and from three to four the number of Assistant Secretaries of the Navy, respectively. These increases would be accomplished by

amending sections 3013 and 5034 respectively, of title 10, United States Code.

Subsection (d) of section 305 of the bill would make conforming amendments to section 5315 of title 5, United States Code, which lists the positions to which Level IV of the Executive Schedule applies. Each of the additional Assistant Secretaries of Defense and the additional Assistant Secretary of the Army and Assistant Secretary of the Navy would be included in that listing.

Title IV of the bill, which consists of eight sections, addresses Reserve matters. Section 401 of the bill would provide authority to increase the total required period of service in the armed forces. Subsection (a) of section 401 of the bill would amend subsections (b) and (d) of section 511 of title 10, United States Code, by striking out the requirement that enlistments in the Reserves under those subsections be for the period of six years and by substituting language to permit such enlistments to be for a period of at least six but not more than eight years. The exact period of such an enlistment under section 511(b) of title 10 would be determined under regulations of the Secretary concerned, and the period of such an enlistment under section 511(d) of title 10 would be determined under regulation of the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy. Furthermore, subsection (a)(2) of section 401 of the bill would provide that these amendments would apply only to enlistments entered into under section 511 (b) or (d) sixty or more days after the enactment of the bill.

Subsection (b) of section 401 of the bill would revise section 651 (a) of title 10, United States Code, to require that each person who becomes a member of an armed force, other than a person deferred under the next to the last sentence of section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456 (d)(1)) shall serve in the armed forces for a total period of not less than six nor more than eight years. Presently, section 651(a) of title 10 provides for service for a period of six years. Subsection (b)(2) of the bill would provide that the amendment to section 651(a) of title 10 would apply only with respect to persons who enter the armed forces sixty or more days after enactment of the bill.

Section 402 of the bill would establish two new bonus programs for certain enlistments, reenlistments, or extensions of service in an element (other than the Selective Reserve) of the Ready Reserve and would repeal the similar bonus program presently described in section 308d of title 37, United States Code. Subsection (a) of section 402 of the bill would amend chapter 5 of title 37 by inserting after section 308f two new sections, namely, sections 308g and 308h.

Proposed section 308g of title 37, United States Code, would provide for an enlistment bonus. Subsection (a) of proposed section 308g would provide that any eligible person who enlists in a combat or combat support skill of an element (other than the Selected Reserve) of the Ready Reserve of an armed force for a term of not less than six years, and who has not previously served in the armed forces, may be paid a bonus as would be provided in subsection (b) of section 308g. Subsection (b) would provide that eligibility for and the amount and method of payment of a bonus under this new section would be determined under regulations of the Secre-

98-771 O—82——6

tary of Defense for the armed forces under his jurisdiction and of the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy. However, subsection (b) would also provide that the bonus could not exceed $1000.

Subsection (c) of proposed section 308g would prohibit the payment of a bonus under the new section to any person who fails to satisfactorily complete initial active duty for training, or who, after completing such training, elects to serve the remainder of his enlistment in the Selected Reserve or in an active component of the armed forces.

Subsection (d) of proposed section 308g would require repayment of part of any bonus received under this new section by a person who fails to serve satisfactorily during the period for which the bonus was paid. The amount to be refunded would be the amount which bears the same ratio to the full bonus amount paid as the period which the person failed to serve satisfactorily bears to the total period for which the bonus was paid. Subsection (e) of proposed section 308g would declare that an obligation to repay the United States imposed by subsection (d) of section 308g is a debt owed to the United States, and subsection (f) of the new section would provide that a discharge in bankruptcy entered less than five years after the end of an enlistment for which a bonus was paid will not discharge a debt arising under subsection (d) of the section.

Subsection (g) of proposed section 308g would provide for administration of this new authority under regulations of the Secretary of Defense, and with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Transportation. Subsection (h) of proposed section 308g would provide that no bonus may be paid under this new authority for an enlistment entered into after September 30, 1984.

Proposed section 308h of title 37, United States Code, would provide a reenlistment, enlistment, and extension of enlistment bonus. Subsection (a) of proposed section 308h would provide that any eligible person who is or has been a member of the armed forces and who reenlists, enlists, or voluntarily extends an enlistment in a combat or combat support skill of an element (other than the Selected Reserve) of the Ready Reserve of an armed force for a period of not less than three years beyond other obligated service may be paid a bonus as would be prescribed by subsection (b) of proposed section 308h. However, no bonus could be paid to any person who had failed to complete satisfactorily any original term of enlistment in the armed forces.

Subsection (b) of proposed section 308h would provide that eligibility for and the amount and method of payment of a bonus under this new section would be determined under regulations of the Secretary of Defense and, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Transportation. However, the bonus amount could not exceed $900.

Subsection (c) of proposed section 308h would require repayment of part of any bonus paid under that section by a person who failed to serve satisfactorily during the period for which the bonus was paid. The amount to be refunded would be the amount which bears the same ratio to the total bonus paid as the period which the

person failed to serve satisfactorily bears to the total period for which the bonus was paid. Subsection (d) of proposed section 308h would declare that an obligation to repay the United States imposed by subsection (c) of section 308h is a debt owed the United States, and subsection (e) of section 308h would provide that a discharge in bankruptcy entered less than five years after the termination of a reenlistment, enlistment, or extension for which a bonus was paid will not discharge a debt arising under subsection (c) of the section.

Subsection (f) of proposed section 308h would provide for administration of this new authority under regulations of the Secretary of Defense, and with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Transportation. Subsection (g) of proposed section 308h would provide that no bonus may be paid under this new authority for a reenlistment, enlistment, or extension of an enlistment entered into after September 30, 1984.

Subsection (b)(1) of section 402 of the bill would repeal section 308d of title 37, United States Code, which provides authority for the payment of a bonus to persons who enlist, reenlist, or extend an enlistment in an element (other than the Selective Reserve) of the Ready Reserve.

Subsection (b)(2) of section 402 of the bill would make technical and conforming amendments to the table of sections at the beginning of chapter 5 of title 37, United States Code, to reflect the proposed repeal of section 308d and the proposed additions of sections 308g and 308h.

Section 403 of the bill would provide medical and dental care for Reservists in certain circumstances. Subsection (a) of section 403 of the bill would amend chapter 55 of title 10, United States Code, by inserting, after section 1074, a new section 1074a and by amending the table of sections to reflect the addition of that new section 1074a. Proposed section 1074a(a) would provide certain health care for any injury incurred or aggravated by Reservists in the following circumstances: (1) while traveling directly to or from the place at which the member is to perform, or has performed, inactive-duty training; (2) during a reasonable period after the member has arrived at the place where inactive-duty training will be performed but before that training begins; (3) during a reasonable period after the member has performed inactive-duty training and before travel from that place of duty begins; (4) during the period between two inactive-duty training periods scheduled on the same day; and (5) during the period between inactive-duty training periods if those periods are scheduled on consecutive days and the member is required to occupy quarters at or in the vicinity of the place of duty and does actually occupy those quarters or otherwise remains under military control. Subsection (b) of proposed section 1074a would provide that the health care to be provided for an injury incurred or aggravated under circumstances described by subsection (a) of the proposed section would be the hospitalization and medical care in a hospital and outpatient care appropriate for the injury until the disability resulting from the injury cannot be materially improved by further hospitalization or care. Additionally, during

any such hospitalization, the injured member would be entitled to subsistence.

Subsection (b) of section 403 of the bill would amend section 204 of title 37, United States Code, by adding to that section a new subsection (j). That new subsection would provide that a member entitled to hospitalization and medical care under the proposed new section 1074a of title 10, United States Code, also is entitled to travel and transportation allowances, or a monetary allowance in lieu thereof, for necessary travel incident to that hospitalization and medical care and for return to his home upon discharge from the medical care system.

Subsection (c) of section 403 of the bill would provide that the amendments made by subsections (a) and (b) of that section would become effective upon enactment of the bill but would apply only to injuries contracted or aggravated on or after enactment.

Section 404 of the bill would expand the President's authority to order Selected Reservists to perform active duty and to stop loss of other members of the armed forces when Selected Reservists are performing certain active duty. Subsection (a) of section 404 of the bill would amend section 673b(a) of title 10, United States Code. That section of title 10 now permits the President to cause up to 100,000 members of the Selected Reserve to be ordered to not more than 90 days active duty, when the President determines it is necessary to augment the active forces for an operational mission. Under the amendments which would be made by subsection (a) of section 404 of the bill, the period of such active duty would be increased to 180 days.

Subsection (b) of section 404 of the bill would amend section 673b of title 10, United States Code, by adding at the end thereof a new subsection (h). That new subsection would provide that whenever the President orders units or members of the Selected Reserve to active duty to augment the active force under the authority of section 673b of title 10, he may also suspend any provision of law relating to promotion, mandatory retirement, or separation applicable to any member of the armed forces who the President determines is essential to national security. This would permit the President to retain personnel on active duty, or in any other status in the armed forces, during periods when the Selected Reserve has been ordered to active duty. Furthermore, new subsection (h) to section 673b of title 10 would provide that any suspension of a provision of law made under the authority of that subsection would terminate on the earlier of (1) the release from active duty of members of the Selected Reserve ordered to active duty under section 673b of title 10; or (2) at such time the President determines that the circumstances which required ordering members of the Selected Reserve to active duty no longer exist.

Section 405 of the bill would provide the Secretary of the Army and the Secretary of the Air Force with authority, similar to that now possessed by the Secretary of the Navy, to retain in active status officers in reserve grades of first lieutenant or captain who have been considered but not recommended for promotion by two selection boards. Subsection (a) of section 405 of the bill would amend section 3846 of title 10, United States Code, which now requires that an Army officer in the reserve grade of first lieutenant,

captain, or major who has been considered but not recommended for promotion by two selection boards either be transferred to the Retired Reserve or discharged from his reserve appointment. The bill would amend section 3846 by adding thereto a new subsection (b) which would permit the Secretary of the Army to retain such an officer in the grade of first lieutenant or captain, but not major, in an active status for a period prescribed by that Secretary or until that officer's removal from active status is required by a provision of law other than section 3846 of title 10.

Subsection (b) of section 405 of the bill would amend section 8846 of title 10. This section now requires that an Air Force officer in the reserve grade of first lieutenant, captain, or major who has been considered but not recommended for promotion or found qualified for Federal recognition by two selection boards either be transferred to the Retired Reserve or discharged from his reserve appointment. Subsection (b) of section 405 of the bill would add a new subsection (c) to section 8846 of title 10 which would permit the Secretary of the Air Force to retain in an active status such an officer in the reserve grade of first lieutenant or captain, but not major, for a period determined by the Secretary or until that officer's removal from active status is required by a provision of law other than section 8846 of title 10.

Subsection (c) of section 405 of the bill would provide that the amendments made by subsections (a) and (b) of the bill would be effective on the date of enactment of the bill.

Section 406 of the bill would expand the authority to order a retired member of the Reserve Components to active duty. Under existing section 675 of title 10, United States Code, a member of the Retired Reserve, if qualified, may be ordered involuntarily to active duty, but ony as provided by section 672(a) of title 10. Section 672(a) of title 10 provides that a Reservist in retired status may be ordered to active duty in time of war, national emergency, or when otherwise authorized by law, but only if the Secretary concerned, with the approval of the Secretary of Defense, determines there are not enough qualified Reserves in an active status or in the inactive National Guard in the required category who are readily available. Under existing sectoin 688 of title 10, a retired member of the Regular components may be ordered to active duty at any time under regulations prescribed by the Secretary of Defense.

Section 406 of the bill would amend both sections 675 and 688 of title 10. Subsection (a) of section 406 of the bill would amend sectoin 675 of title 10 to provide that a member of the Retired Reserve may, if qualified, be ordered to active duty involuntarily as provided in either section 672(a) or section 688, as it would be amended, of title 10, United States Code.

Subsection (b) of section 406 of the bill would amend section 688 of title 10, United States Code, to provide that not only retired regulaar members may be ordered to active duty at any time, but that also a retired member of a reserve component who has completed at least 20 years of active service, or a member of the Fleet Reserve or Fleet Marine Corps Reserve could be ordered to active duty involuntarily at any time.

Subsections (c) and (d) of section 406 of the bill make technical and conforming amendments to the section heading of section 688

of title 10, United States Code, to reflect its expanded application to certain retired Reservists, and to the item relating to that section in the table of sections at the beginning of chapter 39 of title 10, United States Code. Subsection (e) of section 406 of the bill would provide that the amendments made by subsections (a)–(d) of that section of the bill would be effective upon enactment of the bill.

Section 407 of the bill would amend section 3380 of title 10, United States Code, to permit the promotion on active duty of Army reserve commissioned officers who are promoted to a reserve grade higher than the reserve grade in which that officer was ordered to serve on active duty. Presently, section 3380 of title 10 provides that an Army reserve commissioned officer who is serving on active duty (other than for training) and who is promoted to a reserve grade higher than that in which he was ordered on active duty continues to serve on active duty in the grade in which he was serving immediately before that promotion. Unless the officer expressly declines the promotion, he is treated as if he accepted a temporary appointment in the lower reserve grade or he is released from active duty. If that officer has not completed a required period of active duty and cannot opt to be released from active duty, he may decline the promotion and then be promoted upon the completion of the required active duty. Section 8380 of title 10, applicable to Air Force reserve commissioned officers in similar circumstances, permits the Secretary of the Air Force to order such an officer to serve on active duty in the reserve grade to which promoted. Section 407 of the bill would amend section 3380 of title 10 to permit Army reserve commissioned officers to be treated in a similar manner.

Subsection (a) of section 407 of the bill would completely rewrite section 3380 of title 10. Subsection (a) of the rewritten section would state the general rule that a reserve commissioned officer serving on active duty (other than for training) who is recommended for promotion to a higher reserve grade may be promoted to that higher grade and ordered to serve on active duty in that higher grade for the period remaining on the active duty tour to which the officer was ordered to active duty in the lower grade. Subsection (b) of the amended section 3380 would provide that if such an officer were recommended for promotion to a grade for which there is a numerical limitation prescribed under section 524 of title 10, that officer could not be promoted unless a vacancy exists in that grade. If no vacancy exists, the officer will continue to serve in the lower grade until a vacancy exists, or he is released from active duty, whichever is earlier. If an officer's promotion is delayed because no vacancy exists, and that officer is later promoted, the promotion shall carry a date of rank as though the promotion had not been delayed, and for promotion purposes, the officer shall be credited with service in the higher grade based on that adjusted date of rank. However, the adjusted date of rank cannot be the basis for any adjustment in pay or allowances earned on active duty during the period of delay.

Subsection (b) of section 407 of the bill would make a technical and conforming amendment to the item relating to section 3380 in the table of sections at the beginning of chapter 337 of title 10 to

reflect the amended section heading which would be accomplished by the amendment under subsection (a) of section 407 of the bill.

Section 408 of the bill would amend the method of calculating the number of years of service for transfer to the Retired Reserve for reserve officers of the Army and Air Force.

Subsection (a) of section 408 of the bill would delete clause (C) from sectoin 3853(1) of title 10, thereby removing the requirement for counting, for purposes of determining whether an officer must be transferred to the Retired Reserve, the years of service credited to a reserve commissioned officer of the Army under section 3353 of title 10 (relating to credit for education or experience) or under section 22 of Public Law 85–861 (relating to credit for appointment in a special branch or the Women's Army Corps before July 1, 1955).

Subsection (b) of section 408 of the bill would make technical and conforming amendments to sections 3853, 3360(b), and 3360(c) of title 10, to reflect the change in the method of calculating years of service for purposes of transfer to the Retired Reserve which would be made by subsection (a) of section 408 of the bill.

Subsection (c) of section 408 of the bill would make changes to section 8853 of title 10, relating to the calculation of years of service for purposes of transfer to the Retired Reserve of the Air Force, which are identical in substance to those made to section 3853 applicable to the Army.

Title V of the bill, which consists of four sections, deals with health care and related matters. Section 501 of the bill would authorize an increase in the rate of pay and allowances of contract surgeons. Presently, under section 201(b) of title 37, United States Code, the basic pay of a contract surgeon serving full-time is established at a rate equal to the basic pay of a commissioned officer in pay grade O–3 with over four, but not more than six, years of service, and section 421(a) of that same title provides that a contract surgeon serving full-time with a uniformed service is entitled to the basic and other allowances authorized by chapter 7 of title 37 equal to those for a commissioned officer in pay grade O–3 with over four, but not more than six, years of service.

Subsection (a) of section 501 of the bill would amend section 201(b) of title 37 to provide a full-time contract surgeon with entitlement to basic pay at a rate equal to the basic pay of a commissioned officer in pay grade O–6 with more than 26, but not more than 30, years of service. Likewise, subsection (b) of section 501 of the bill would revise section 421(a) of title 37 to provide that a full-time contract surgeon may be paid the basic and other allowances authorized by chapter 7 of title 37 at a rate not exceeding the rate for a commissioned officer in pay grade O–6 with at least 26, but not more than 30, years of service.

Subsection (c) of section 501 of the bill would repeal sections 4022 and 9022 of title 10, United States Code, which provide unnecessary specific authority to employ contract surgeons in the Army and Air Force, respectively. Additionally, subsection (c) of that section of the bill would make technical and conforming amendments in the table of sections at the beginning of chapters 373 and 873 of title 10 to reflect the repeal of sections 4022 and 8022, respectively, of title 10.

Section 502 of the bill would amend chapter 55 of title 10, United States Code, by adding at the end thereof a new section 1090 which will direct the Secretary of Defense, in consultation with the Secretary of Health and Human Services, to conduct studies and demonstration projects on the health care delivery system.

Subsection (a) of the proposed section 1090 would contain the basic directive for conducting these studies and projects and establish that these studies and projects are to be conducted with a view to improving the quality, efficiency, convenience, and cost effectiveness of providing health care to members, former members, and dependents. Included in the studies that may be performed would be alternative programs of providing dental care to spouses and children of members on active duty, including the study of insurance or dental plan contracts. The Secretary of Defense further would be directed to provide Congress with written reports on the results of these studies and projects, including recommendations. The first report would be required not later than March 1, 1983.

Subsection (b) of proposed section 1090 of title 10 would permit the Secretary of Defense to enter into contracts to conduct the studies and projects directed by subsection (a) of proposed section 1090 of title 10. Subsection (c) of proposed section 1090 would permit the Secretary of Defense to obtain advice and recommendations for such advisory committees, as the Secretary deems appropriate, on the value of proposed studies and projects. Subsection (d) of proposed section 1090 would prohibit the conducting of a demonstration project, for the furnishing of dental care under an insurance or dental plan contract. This section would not prohibit a study of a dental care program under an insurance or dental plan contract.

Subsection (a) of section 502 of the bill also would make a conforming amendment to the table of sections at the beginning of chapter 55 of title 10 to reflect the proposed addition of a new section 1090 to that chapter. Subsection (b) of section 502 of the bill would provide that the amendments made by subsection (a) of that section of the bill would be effective on October 1, 1982, or the date of enactment of the bill, whichever is later.

Section 503 of the bill would direct the Secretary of Defense to conduct a study of the feasibility and possible benefits of establishing within the Department of Defense a Defense Health Agency which would function as the overall management element for health care services in the Department and to support the health care missions of the military departments and the unified and specified commands under all conditions. Furthermore, section 503 of the bill would require the Secretary of Defense to submit the results of this study, along with recommendations, to the Committees on Armed Services of the Senate and House of Representatives within 180 days after enactment of the bill.

Section 504 of the bill would direct the Secretary of Defense, in consultation with the Secretary of Health and Human Services, to submit to the Congress an annual report, by December 1 of each year, on medical malpractice claims made against medical personnel of the military departments during the previous fiscal year. Each report would be required to include: (1) the number of malpractice claims filed; (2) the number of malpractice claims settled

administratively by the military departments and the amount paid under these settlements; (3) the number of cases in litigation, number of malpractice claims against medical personnel of military departments settled by the Justice Department, and the amounts paid by the Justice Department as the result of judgements rendered against medical personnel of the military departments; and (4) the current accreditation status of hospitals under the jurisdiction of the Secretary of Defense and the Secretary of Health and Human Services and an evaluation of the viability and success of Quality Assurance/Risk Management Programs of each military department.

Section 601 of the bill is a free standing provision of law which provides benefits to certain surviving spouses and children of deceased military personnel as a replacement for certain Social Security benefits which were terminated by the enactment of sections 2205 and 2210 of the Omnibus Reconciliation Act of 1981 (Public Law 97-35; 95 Stat. 841).

Subsection (a)(1) provides for the head of the agency (defined in subsection (i) as the head of the department or agency designated by the President to administer this section) to pay a monthly amount to the surviving spouse of a member or former member of the Armed Forces (described in subsection (c)). This amount will be paid each month if the surviving spouse has in his or her care a child of the member or former member who is 16 years of age, but not yet 18, and is entitled to a child's insurance benefit under section 202(d) of the Social Security Act, and if the surviving spouse is not entitled for that month to a mother's insurance benefit under section 202(g) of the Social Security Act bacause she has that child or any other child of the member or former member in her care.

Subsection (a)(2) describes how to determine the amount of the payment under subsection (a)(1). It will be the amount of the mother's benefit that she would receive under section 202(g) of the Social Security Act if the child were under 16, disregarding any cost of living adjustments made after August 1981 under section 215(i) of the Social Security Act. However if the surviving spouse is entitled to a mother's insurance benefit because she has in her care the child of a person other than the member or former member of the Armed Forces, the amount of the payment for the child of the member or former member shall be reduced (but not below zero) by the amount she receives for the child who is the child of a person other than the member or former member.

Subsection (b)(1) provides for the head of the agency to pay a monthly amount to a surviving child of a member or former member of the Armed Forces who is 18 years of age but not yet 22 and is not under a disability as defined in section 223(d) of the Social Security Act. This amount will be paid each month if the child is a full-time student at certain defined post-secondary schools, colleges, or universities and if the child is not entitled for that month to a child's insurance benefit under section 202(d) of the Social Security Act or is entitled to that benefit only by reason of section 2210(c) of the Omnibus Reconciliation Act of 1981.

Subsection (b)(2) describes how to determine the payment under subsection (a)(1). It will be in the amount that a child would have been entitled to receive for that month as a child's insurance bene-

fit under section 202(d) of the Social Security Act (as in effect before August 13, 1981), disregarding any cost of living adjustments made after August 1981 under section 215(i) of the Social Security Act, but reduced by any amount payable to such child under section 2210(c) of the Omnibus Budget Reconciliation Act of 1981.

Subsection (c) limits the applicability of this section by stating that a member or a former member of the Armed Forces (referred to in subsections (a) and (b)) is one who died on active duty before August 13, 1981 or who died from a service-connected disability incurred or aggravated before that date.

Subsection (d)(1) requires the Secretary of Health and Human Services to provide to the head of the agency that administers this section all necessary information. Subsection (d)(2) provides for implementing regulations to be prescribed by the head of the agency not later than 90 days after the date of enactment of section 601.

Subsection (e)(1)(A) provides that each time after December 31, 1981, there is an increase in dependency and indemnity compensation paid under 38 U.S.C. 411, the head of the agency shall increase the benefit paid to a surviving spouse under subsection (a). This increase shall be effective the same date and shall be the same overall average percentage increase by which dependency and indemnity compensation rates under 38 U.S.C. 1731(b) are increased.

Subsection (e)(1)(B) provides that each time after December 31, 1981, there is an increase in the rates of educational assistance allowances under 38 U.S.C. 1731(b), the head of the agency shall increase the benefits paid to a surviving child under subsection (b). This increase shall be effective the same date and shall be the same overall average percentage increase by which educational assistance allowance rates under 38 U.S.C. 1731(b) are increased.

Subsection (e)(2) provides that payments, if not in multiples of $1, will be rounded down to the next lowest multiple of $1.

Subsection (f) provides that payments under subsections (a) and (b) shall be made only for months beginning after the month in which this section is enacted.

Subsection (g)(1) requires the Secretary of Defense to transfer from the "Retired Pay, Defense" account of the Department of Defense to the head of the agency administering this section such amounts as the head of the agency determines to be required to make payments provided for under subsections (a) and (b) and to pay administrative expenses incurred in paying such benefits. Provision is also made for transfer of funds in advance of the payment of benefits.

Subsection (g)(2) requires the head of the agency to establish on the books of his agency a new account from which benefits will be paid and into which funds transferred by the Secretary of Defense shall be credited.

Subsection (h) permits the head of the agency and the Secretary of Health and Human Services to enter into an agreement which would allow for use of a single monthly payment to a person who was a beneficiary under either subsection (a) or (b) and was also a beneficiary under section 202(d) or (g) of the Social Security Act. This single monthly payment would be made only if it was agreed that this would be practicable and cost effective to the Government.

Subsection (i) defines "head of the agency" and gives certain other terms the same meaning they have in 38 U.S.C. 101.

Title VII of the bill, which contains five sections, addresses miscellaneous matters. Section 701 of the bill would prohibit the obligation or expenditure of funds appropriated to or for use of an armed force for certain purposes unless the funds have been specifically authorized for such purposes by a law other than the law appropriating such funds. This would be accomplished by amendment to section 138(a) of title 10, United States Code, which now prohibits the appropriation of funds for any fiscal year to or for use by the armed forces or the obligation or expenditure of funds for any of nine specific purposes unless these funds have been specifically authorized by law. Section 701 of the bill would amend section 138(a) of title 10 to provide that funds appropriated to or for the use of any armed force may be obligated or expended for any of the existing nine specific purposes only to the extent these funds have been specifically authorized by a law other than the law appropriating these funds. A failure to obligate or expend funds because of the limit placed on those funds under the amended section 138(a) of title 10 would not be considered a recission, reservation, or deferral of budget authority for purposes of the Impoundment Control Act of 1974.

Section 702 of the bill would amend part I of subtitle a of title 10, United States Code, by adding at the end thereof a new chapter 19 dealing with aircraft accidents. That new chapter 19 would contain two sections.

Section 391 of the new chapter 19 would define "safety investigation" to be an investigation conducted solely to determine the cause of an aircraft accident and to obtain information which may prevent the occurrence of similiar accidents.

Section 392 would sanction the conduct of safety investigations by the armed forces of aircraft accidents involving aircraft of the armed forces and would limit the use which could be made of reports of such investigations. Proposed section 391 would consist of four subsections, (a)–(d). Subsection (a) of the new section would specifically authorize the Secretary concerned to conduct a safety investigation of an accident involving an aircraft under the jurisdiction of that Secretary, solely for the purpose of determining the cause of the accident and to obtain information which might prevent the occurrence of similar accidents.

Subsection (b) of proposed section 391 of title 10 would provide that certain portions of a report of such an investigation could not be released outside the armed force concerned unless the Secretary concerned approved the release for safety purposes, could not be the subject of discovery in any judicial or administrative proceeding, and could not be used as evidence, or to obtain evidence, in any disciplinary action, or suit, or other judicial or administrative proceedings. Subsection (c) of proposed section 391 would provide that those portions of the report of such an investigation which could not be used as described in proposed subsection (b) are those portions relating to the deliberations of the investigating body (including discussion, analysis, opinion, conclusion, finding, or recommendation), these portions relating to statements or information obtained under an express promise of confidentiality from a wit-

ness or manufacture, and these portions relating to life science reports.

Subsection (d) of proposed new section 391 would provide that nothing in proposed section 391 would alter or limit the existing authority of the National Transportation Safety Board under section 702(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1449(a)), section 304(a)(1)(A) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(a)(1)(A)) and section 6(d) of the Department of Transportation Act (49 U.S.C. 1665(d)). These provisions of law establish the duty and authority the National Transportation Safety Board to conduct investigations of certain aircraft accidents, including certain accidents involving aircraft of the armed forces.

Subsection (e) of new section 391 would provide that the Secretary concerned shall prescribe regulations to carry out the new section 391.

Subsection (b) of section 702 of the bill would make conforming amendments to the table of chapters at the beginning of subtitle A and at the beginning of part I of subtitle A of title 10, United States Code, to reflect the addition of a new chapter 19, as would be added by the amendments made by subsection (a) of the section.

Section 703 of the bill would amend section 502 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2304 note) to establish guidelines on the contracting out of certain functions of the Department of Defense. This purpose would be accomplished by striking out the existing subsection (d) of section 502 of that Act and inserting four new subsections, (d)–(g). New subsection (d) would prohibit the contracting out of a function of the Department of Defense only if the Secretary of Defense, in his sole discretion, or his designee, determines that such function must be performed by military personnel of the Department in order to meet national defense needs. This new subsection (d) would further provide that a commercial or industrial activity may be considered necessary to meet national defense needs if (1) the activity is operated by military personnel and the Secretary of Defense determines that (A) the activity is utilized in, or is subject to deployment in, a direct combat role; (B) the activity is essential for training skills that are exclusively military in nature; (C) the activity is needed to provide work assignments for career progression or for a rotation base for overseas or sea duty assignments; or (D) the activity is an integral part of a combat or combat support unit providing self-sufficiency in maintaining assigned weapons; (2) the activity performs depot or intermediate level maintenance and is needed to insure a ready controlled source of technical competence and resources that, when combined with available contract support, will meet peacetime, mobilization, and sustained combat equipment readiness requirements; (3) the performance of the activity by other than military or civilian personnel of the Department would adversely affect National defense capabilities; or (4) the activity, performed on a military installation, is so important to the safety or security of that installation that the potential for interruption of that activity would be hazardous to safety or security at the installation.

Existing section 502(a)(2)(A) of the Department of Defense Authorization Act, 1981, requires that Congress be notified of a decision by the Department to study a commercial or industrial type

function for performance by contract. The bill would add a new section 502(e) to that Act to require that as part of any such notification, the Secretary of Defense include the assessment of the military commander of the major operating command having responsibility for determining if the function being considered is a function described in subsection (d)(1), (2), (3), or (4), as that subsection would be amended by the bill.

A new subsection (f) would also be added to section 502 of the Act to require that cost comparisons required by existing subsection (a)(2)(B) of that section include a full accounting of costs for both the Government and a private contractor. However, costs common to both would be excluded. Additionally, new subsecton (f) would provide that, in accordance with Secretary of Defense guidelines, in such a cost comparison the costs to the Government of the cost comparison study itself shall (1) be reflected as a cost of contractor performance if the study if conducted for an activity then being performed by the Government; or (2) be reflected as a cost of Government performance if the study is conducted for an activity then being performed by contract.

Section 703(a) of the bill would also add a new subsection (h), containing two paragraphs, to section 502 of the DOD Authorization Act, 1981. That new subsection (h) would provide that, except in cases of activities which may not be performed by contract because of a Secretarial determination under new subsection (d) of that Act, in the case of any new requirement for a commercial or industrial type function or activity of the Department established after 60 days after enactment of the bill, the Secretary of Defense shall, before deciding whether that function or activity will be performed by military or civilian personnel of the Department or by private contractor, determine which method of performance would be less costly to the Government using a cost comparison study.

Subsection (b) of section 703 of the bill would provide that the amendments made by subsection (a) of that section of the bill would be effective upon enactment of the bill.

Section 704 of the bill would amend chapter 81 of title 10, United States Code, by adding at the end thereof a new section 1587. That new section would provide a measure of employment protection to certain nonappropriated fund instrumentality (NAF) employees who make disclosures of certain information.

New section 1587 of title 10 would be composed of five subsections, (a)–(e). Subsection (a) would establish three definitions applicable throughout the new section. The term "nonappropriated fund instrumentality employee" would mean any civilian employee paid from nonappropriated funds of the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, Marine Corps exchanges, or any other instrumentality of the United States which is under the jurisdiction of the armed forces and is for the comfort, pleasure, contentment, or physical or moral improvement of armed forces' members. The term "civilian employee" would have the meaning given the term "employee" by section 2105(a) of title 5, United States Code. Finally, the term "personnel action" with respect to an NAF employee (or any applicant for a position as such an employee) would mean any of the following: a corrective action; a detail, transfer, or reassignment; a reinstatement, restora-

tion, or reemployment; any decision concerning pay, benefits, or awards, or concerning education or training (if reasonably expected to lead to an appointment, promotion, or other personnel action); and, any significant change in duties or responsibilities inconsistent with the employee's salary or grade level.

Subsection (b) of proposed section 1587 would prohibit any civilian employee, NAF employee, or military member who has authority to take, direct others to take, approve, or recommend any personnel action, from taking or failing to take such action with respect to any NAF employee as reprisal for such employee's disclosures of certain information. The types of disclosures which would result in the employee being protected from reprisals include information the employee reasonably believes evidences a violation of law, rule, or regulation or evidences mismanagement, gross waste of funds, an abuse of authority, or substantial and specific danger to public health or safety, provided such disclosure is not specifically prohibited by law or the information is not to be kept secret in the interest of national defense or the conduct of foreign affairs as provided specifically in or pursuant to Executive order. Also covered would be any disclosure made by an NAF employee to a civilian employee, another NAF employee, or an armed forces member who has been designated by law or by the Secretary concerned to receive the types of disclosures described above, if the NAF employee believes the disclosure evidences a violation of law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific damage to public health or safety. It is noted that if disclosure is made to a person designated to receive such disclosures, the NAF employees' belief about the nature of that disclosure need not be reasonable in order for that NAF employee to be protected from reprisal through personnel action.

Subsection (c) of new section 1587 would permit the President to exclude any NAF employee from the protection of this new section based upon the President's determination that the exclusion is necessary and warranted for good administration.

Subsection (d) of new section 1587 would make the Secretary of Defense responsible for preventing reprisals through personnel action against a protected NAF employee and to take corrective action in the case such reprisals do occur. The subsection would specifically prohibit the delegation of this responsibility to the Secretaries of the military departments or to the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics.

Subsection (e) of new section 1587 would direct that the Secretary of Defense, after consulting with the Director of the Office of Personnel Management and the Special Counsel of the Merit Systems Protection Board, prescribe regulations to carry out the new section. Such regulations would have to include provisions to insure confidentiality to employees making qualifying disclosures.

Subsection (a) of section 704 of the bill would also make a conforming amendment to the table of sections at the beginning of chapter 81 of title 10, United States Code, to reflect the addition of new section 1587 to that chapter.

Subsection (b) of section 704 of the bill would provide that the amendments made by subsection (a) of that section of the bill

would apply to any personnel action which would be prohibited by proposed section 1587(b) of title 10 which occurs after enactment of the bill.

Section 705 of the bill would amend section 8141 of title 5, United States Code, to expand the coverage of certain members of the Civil Air Patrol under Federal Employees Compensation Act provisions. Presently, Civil Air Patrol Cadets are not eligible for compensation under that Act even if they are killed or disabled while performing missions for the Civil Air Patrol. Subsection (a)(1) of section 705 of the bill would amend section 8141(a) of title 5 to provide such coverage to all Civil Air Patrol members, except Cadets under the age of eighteen years. Presently, death or disability payments for these members of the Civil Air Patrol who are killed or disabled while covered under Federal Employees Compensation Act provisions, are computed utilizing a presumed rate of pay of $300 a month. Subsection (a)(2) of section 705 of the bill would increase the base computation rate to an amount equal to the pay at the level of a GS–9, step 1.

Subsection (b) of section 705 of the bill would provide that the amendments to be made by subsection (a) of that section of the bill would take effect on enactment of the bill. However, the new coverage for Civil Air Patrol Cadets eighteen years of age and older would only apply in the case of death or injuries occurring after that enactment, and the new base computation rate for determining death or disability payments would apply only to these payments payable for periods commencing on or after enactment of the bill. With regard to this latter provision, the date of a death or disability could be before, on, or after the date of enactment of the bill, but only payments payable for periods beginning after the date of enactment would be computed utilizing the new base computation rate.

Title VIII of the bill contains one section, section 801, which would provide that except as would be provided elsewhere in the bill, the provision of the bill and the amendments made by the bill would take effect on the date of enactment of the bill or October 1, 1982, whichever is later.

Committee Action

On September 14, 1982, the Committee on Armed Services voted to report the bill favorably.

Congressional Budget Office Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, D.C., September 21, 1982.

Hon. John G. Tower,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for the Uniformed Services Pay

Act of 1982 as ordered reported by the Senate Committee on Armed Services on September 14, 1982.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

JAMES BLUM,
(For Alice M. Rivlin, Director.)

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill Number: Not yet assigned.
2. Bill Title: Uniformed Services Pay Act of 1982.
3. Bill Status: As ordered reported by the Senate Committee on Armed Services on September 14, 1982.
4. Bill Purpose: The Uniformed Services Pay Act provides a 4 percent increase in the pay and allowances of most members of the uniformed services, makes changes in certain elements of military compensation and in certain personnel programs, and makes other legislative changes which have no significant budget impact.
5. Cost Estimate:

[By fiscal year, in millions of dollars]

	1983	1984	1985	1986	1987
Function 050:					
Estimated budget authority	585.3	278.6	190.6	192.5	26.2
Estimated outlays	567.6	288.6	193.2	192.0	30.7
Function 400:					
Estimated authorization/budget authority	−.1	−.1	−.2	−.2	−.2
Estimated outlays	−.1	−.1	−.2	−.2	−.2
Total estimated authorization/budget authority	585.2	278.5	190.4	192.3	26.0
Total estimated Outlays	567.5	288.5	193.0	191.8	30.5

6. Basis of estimate: All estimated authorizations are assumed to be appropriated before each fiscal year.

Section 101 prohibits adjustment of pay and certain compensation based on section 1009 of title 37, United States Code. The bill provides, instead, for a 4 percent adjustment of compensation beginning October 1, 1982, for all members of the uniformed services except those in the pay grade of E–1, who will receive no increase. CBO economic assumptions assume that the military pay raise in fiscal year 1983 will be 4 percent. Relative to this base, there will be a $62 million savings because enlisted personnel in pay grade E–1 will not receive the 4 percent raise under this proposed legislation. These estimated savings were computed by calculating the E–1 share of the total CBO military pay raise for fiscal year 1983.

Section 102 extends through fiscal year 1983 the authority to pay critical skills enlistment bonuses and selective reenlistment bonuses. Current authority to pay these bonuses expires in 1982. Enlistment bonuses may vary in size up to a maximum of $8,000 for certain critical skills. Maximum payment in any one year is $5,000. Reenlistment bonuses also may vary up to 6 months of basic pay times the years of reenlistment or $20,000, whichever is less. Reenlistment bonus payments are made with a 50 percent lump sum payment in the first year, the remainder to be paid in equal

annual installments. The reenlistment bonus estimate is based on CBO projections of the average total number of bonus recipients in fiscal year 1983. The enlistment bonus estimate is based on DoD's projection of the average total number of new enlistments in 1983.

Section 103: (a) extends through 1983 the authority to pay special pay for aviation career officers in the Navy and Marine Corps; (b) modifies the eligibility requirements for receipt of the special pay; and (c) provides a sense of the Congress that eligibility be limited only to officers who will be induced to remain on active duty by receipt of the special pay. Bonus levels vary between $4,000 per year for each year of a 3-year extension to $6,000 per year for each year of a 4- or 6-year extension. Total authorizations for this bonus were estimated based on DoD's projections of officers actually eligible for this program in fiscal year 1983.

Section 106 authorizes $4 million for fiscal year 1983 to provide reimbursements for accommodations in place of quarters for Navy personnel during ship overhauls.

Section 201 provides for the rounding of retired pay and survivor annuities to the next lower whole dollar amount. This section covers all retired military and survivor annuities, the Coast Guard, the Coast and Geodetic Survey, and the Public Health Service. The amendments made by this section become effective on January 1, 1983 for all persons who become entitled to retired or retainer pay on or after that date, and on April 1, 1983 for all others. Savings will occur as a result of this provision. Estimates of the average strength population affected by this provision were obtained from the appropriate agency. An average savings of $.50 per person per year was assumed.

Section 301 provides for an increase of 27 in the number of general/flag officers, to a number not in excess of 1,100. The Department of Defense currently has 1,073 general/flag officers on active duty, the level required under current law. This increase is limited to the fiscal year ending September 30, 1983.

Section 402 provides that: (a) an enlistment bonus of $1,000 or less may be paid to persons who enlist in a combat or combat support skill of an element (other than the Selected Reserve) of the Ready Reserves and (b) a reenlistment bonus of $900 or less may be paid to any eligible person who reenlists, enlists, or voluntarily extends an enlistment in a combat or combat support skill of an element (other than the Selected Reserve) of the Ready Reserve. DoD projects that in fiscal year 1983 there will be five thousand direct enlistments to the Ready Reserve and 18.7 thousand persons who reenlist in the Ready Reserve. DoD estimated the actual costs of these bonus extensions by using projections for each of the various skill categories involved. This provision will remain in effect until September 30, 1984.

Section 403 extends medical and dental care to reservists for injuries incurred or aggravated while traveling to and from inactive-duty training and during certain other periods before and after the performance of such duty. The bill also makes members eligible for travel and transportation related to hospitalization and medical care. The DoD estimated the cost of this provision based on their projections of reserve injuries eligible for care under this provision.

Section 501 authorizes the DoD to raise the compensation level of contract surgeons from the basic pay of an officer in pay grade 0-3 with over four, but not more than six years, to that of an officer in pay grade O-6 with more than twenty-six, but not more than thirty years of service. (Contract surgeons are medical personnel who contract to work in DoD facilities.) The bill also allows the Navy to use contract surgeons for the first time and expands the use of personnel services contracts in all cases. An increase in the number of contract surgeons is expected to raise the level of DoD hospital facility use, thereby reducing CHAMPUS costs. The Army has completed a study of 20 hospital facilities in the 50 states that shows that if each year $16 million is added for contract surgeons in those hospitals, CHAMPUS costs may be reduced by $26.7 million, with potential savings of $10.7 million per year. The Air Force and Navy have not made an estimate of either costs or savings that may result under this section. For purposes of this estimate, the Army's estimate of total cost and savings have been coverted to per hospitals figures, which are then attributed to each of DoD's 125 hospitals within the 50 states. For fiscal year 1983, only one half year's savings are expected in order to allow for inititation of the program.

Section 502 directs the Secretary of Defense to conduct studies and demonstration projects on the health care delivery system of the Uniformed Services. The studies are to focus on ways to improve the quality, efficiency, convenience, and cost effectiveness of providing health care services. This bill requires the Secretary of Defense to submit these reports to Congress from time to time, with the first such report submitted no later than March 1, 1983. The Department of Defense estimates that such a requirement would cost approximately $1 million in fiscal year 1983 with the workload shared between in-house staff and some contractors.

Section 503 directs the Secretary of Defense to conduct a study on the feasibility and possible benefits of establishing a Defense Health Agency within DoD. This study is to be submitted to the House and Senate Armed Services Committees not later than 180 days after the enactment of this bill. DoD estimates that this study will cost approximately $500,000 in fiscal year 1983.

Section 601 would replace certain Social Security benefits that were phased-out by sections 2205 and 2210 of the Ominibus Reconcilation Act of 1981 (Public Law 97-35) with similar benefits that would be paid by the Secretary of Defense from the Defense Retired Pay account. Such replacement benefits would only be available, however, to eligible survivors of members or former members of the Armed Forces who died on active duty before August 13, 1981 or died from service-connected disabilities incurred before that date.

Section 601(a) would replace Social Security benefits to eligible surviving spouses caring for children, who are offspring of the deceased service member, between the ages of 16 and 18. The amount of the benefit would be equal to the amount of the Social Security Mothers' benefit for which the surviving spouse would be eligible under section 202(g) of the Social Security Act if such child were under sixteen years of age. However, any cost-of-living adjustments made to the Social Security benefit after August 1981 would not

apply to the replacement benefits. The replacement benefits would instead be increased whenever, after December 31, 1983, an increase is made in Dependency and Indemnity Compensation (chapter 13, title 38, U.S.C.) benefits.

The number of individuals affected by this provision was estimated using data from the Dependency and Indemnity Compensation (DIC) program for which these individuals are also eligible. According to an age distribution of DIC surviving children from the Veterans Administration, which administers the DIC program, between 12,000 and 14,000 DIC children should be between the ages of 16 and 18 in each of the next five years. Many of the mothers of these children would not be affected by this provision, however. Many of the mothers would be ineligible for the Social Security benefit because of excessive earnings, while others would retain their eligibility despite the reconciliation amendment because they have other children below the age of 16. The estimate above assumes, therefore, that only about 3,000 surviving spouses would be eligible for the replacement benefits each year.

The restriction on Social Security mothers' and fathers' benefits is not effective until September 1983 for individuals who were receiving such benefits on the date of enactment of Public Law 97-35, August 13, 1982. Because the number of new DIC cases is fairly low during peacetime, the vast majority of DIC surviving spouses should have been receiving social security benefits in August 1981 and, therefore, should not be affected by the Reconciliation amendment until fiscal year 1984. For this reason the cost in fiscal year 1983 is not expected to be significant.

After December 31, 1983, the replacement benefits would be increased at the same time and by the same percentage as increases in DIC benefits. Under current law, DIC benefits are not indexed for inflation; the estimate above, therefore, assumes no future increases in the replacement benefits. However, DIC benefits have historically been increased each year, effective October 1, by the same percentage as the increase in Social Security benefits occuring the previous June. Should future cost-of-living increases be enacted in the DIC program according to the historical pattern, the cost of the replacement mothers' benefits would be as shown below:

[By fiscal year, in millions of dollars]

	1983	1984	1985	1986	1987
Estimated Budget Authority	9.0	[1] 9.6	[1] 10.3	[1] 10.9	
Outlays	9.0	[1] 9.6	[1] 10.3	[1] 10.9	

[1] Assumed cost-of-living increases reflect the economic assumptions underlying the First Concurrent Resolution on the budget for fiscal year 1983.

Section 601(b) would replace Social Security benefits to eligible surviving dependent children between the ages of 18 and 22 who are full-time students in post-secondary educational institutions. The amount of the replacement benefit would be equal to the amount of the Social Security child's benefit for which the child would have been eligible under section 202(d) of the Social Security Act as in effect prior to August 1981, except that any cost-of-living adjustments made since August 1981 should not apply. The replace-

ment students' benefit would be increased whenever, after December 31, 1983, an increase is made to Survivors' and Dependents' Educational Assistance (chapter 35, title 38, U.S.C.) benefits.

The number of individuals affected by this provision was estimated using data from other federal programs for which they are eligible. These individuals are entitled under current law to either of two benefits administered by the Veterans Administration (VA): 45 months of educational benefits ($342 a month for full-time institutional training) under the Survivors' and Dependents' Educational Assistance Program or suvivors' benefit (ranging from $210 to $79 a month, depending on the number of eligible siblings and the presence of an eligible parent) under the Dependency and Indemnity Compensation program. Based on data from these programs, it is estimated that approximately 28,200 surviving children of former military personnel would gain benefits as a result of this provision in fiscal year 1983, declining to about 17,300 children in fiscal year 1987. Because the replacement benefit is reduced by the amount of any partial Social Security benefits, the average annual replacement benefit is estimated to grow from about $930 in fiscal year 1983 to approximately $3,000 in fiscal year 1986, when the phase-out of Social Security dependent students' benefits is complete. No future increases were assumed in the replacement students' benefits, because chapter 35 education benefits are not indexed by law for inflation. Legislated increases have been enacted in this program only sporadically and cannot be predicted with any degree of confidence.

Section 705 changes the compensation of Civil Air Patrol members by: (a) increasing the compensation base from $300 per month to the equivalent monthly pay of a GS-9 step 1, approximately $1,688 per month and (b) expanding eligibility to Civil Air Patrol Cadets who are 18 years of age or older.

Several sections of this bill make technical changes to personnel and other compensation matters, but they involve no costs or insignificant costs for the Department of Defense.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Patrick L. Haar (226-2840), Julia H. Doherty (226-2840), and K.W. Shepherd (226-2820).

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

COSTS OF UNIFORMED SERVICES PAY ACT OF 1982

[By fiscal year, in millions of dollars]

Function 050	1983	1984	1985	1986	1987
Title I—Compensation Matters					
Sec. 101—Pay raise:					
Estimated authorization	−62.0				
Estimated outlays	−61.1	−0.9			
Sec. 102—Selective reenlistment bonus:					
Estimated authorization	509.0	167.0	167.0	167.0	
Estimated outlays	494.0	177.0	167.0	167.0	5.0
Sec. 102—Enlistment bonus:					
Estimated authorization	83.8	96.7			
Estimated outlays	81.3	96.3	2.9		

COSTS OF UNIFORMED SERVICES PAY ACT OF 1982—Continued

[By fiscal year, in millions of dollars]

Function 050	1983	1984	1985	1986	1987
Title I—Compensation Matters—Continued					
Sec. 103—Aviation bonus:					
Estimated authorization	6.0	12.0	18.0	24.0	30.0
Estimated outlays	5.8	11.8	17.9	23.8	29.8
Sec. 106—Quarters unavailable:					
Authorization level	4.0				
Estimated outlays	4.0				
Title II—Retired Pay Matters					
Sec. 201—Rounding of annuities:					
Estimated budget authority	−4.3	−8.8	−9.0	−9.2	−9.3
Estimated outlays	−4.3	−8.8	−9.0	−9.2	−9.3
Title III—Personnel Management Matters					
Sec. 301—General/flag officer increase:					
Estimated authorization	.1				
Estimated outlays	.1				
Title IV—Reserve Matters					
Sec. 402—Enlistment bonuses:					
Estimated authorization	2.5				
Estimated outlays	2.4	.1			
Sec. 402—Reenlistment bonus:					
Estimated authorization	22.9				
Estimated outlays	22.2	.7			
Sec. 403—Medical and dental care for reservists:					
Estimated authorization	5.0	6.0	7.0	8.0	9.0
Estimated outlays	4.1	5.7	6.8	7.7	8.8
Title V—Health Care and Related Matters					
Sec. 501—Contract surgeons:					
Estimated authorization	−33.0	−66.0	−66.0	−66.0	−66.0
Estimated outlays	−32.0	−65.0	−66.0	−66.0	−66.0
Sec. 502—Studies on health care delivery:					
Estimated authorization	1.0	1.1	1.2	1.3	1.3
Estimated outlays	.8	1.1	1.2	1.3	1.3
Sec. 503—Study on Defense Health Agency:					
Estimated authorization	.3				
Estimated outlays	.3				
Title VI—Surviving Spouses' and Children's Benefits					
Sec. 601—Survivor benefits:					
Estimated budget authority	49.6	70.4	72.2	67.2	60.9
Estimated outlays	49.6	70.4	72.2	67.2	60.9
Title VII—Miscellaneous Matters					
Sec. 705—Civil Air Patrol compensation:					
Estimated authorization	.2	.2	.2	.2	.3
Estimated outlays	.2	.2	.2	.2	.2
Total—Function 050—Estimated authorization:					
Budget authority	585.3	278.6	190.6	192.5	26.2
Estimated outlays	567.6	288.6	193.2	192.0	30.7
Title II—Retired Pay Matters					
Sec. 201—Rounding of annuities:					
Estimated budget authority	−.1	−.1	−.2	−.2	−.2
Estimated outlays	−.1	−.1	−.2	−.2	−.2

REGULATORY IMPACT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that a report on the regulatory impact of a bill be

included in the report on such bill. The committee finds that in the case of S. 2936 there is no regulatory impact.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law proposed to be made by the bill are shown as follows: Existing law to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman.

TITLE 5, UNITED STATES CODE

* * * * * * *

PART III—EMPLOYEES

* * * * * * *

CHAPTER 53—PAY RATES AND SYSTEMS

* * * * * * *

§ 5315. Positions at level IV

Level IV * * *

ASSISTANT SECRETARIES OF DEFENSE **[**(7)**]** *(10)*

* * * * * * *

ASSISTANT SECRETARIES OF THE ARMY **[**(4)**]** *(5)*

ASSISTANT SECRETARIES OF THE NAVY **[**(3)**]** *(4)*

* * * * * * *

Subpart G—Insurance and Annuities

CHAPTER 81—COMPENSATION FOR WORK INJURIES

* * * * * * *

§ 8141. Civil Air Patrol volunteers

(a) Subject to the provisions of this section, this subchapter applies to a volunteer civilian member of the Civil Air Patrol, except a Civil Air Patrol Cadet *under 18 years of age.*

(b) In administering this subchapter for a member of the Civil Air Patrol covered by this section—

(1) the monthly pay of a member is deemed **[**$300**]** *to be at the pay level of GS–9, step 1* for the purpose of computing compensation for disability or death;

TITLE 10, UNITED STATES CODE

Subtitle A—General Military Law

PART I. ORGANIZATION AND GENERAL MILITARY POWERS

Chapter		
1.	Definitions	6
3.	General Powers	14
4.	Department of Defense	22
5.	Joint Chiefs of Staff	38
7.	Boards, Councils, and Committees	43
9.	Regular Components. [No present sections]	
11.	Reserve Components	49
13.	The Militia	73
15.	Insurrection	77
17.	Arming of American Vessels	83
18.	Military Cooperation With Civilian Law Enforcement Officials	371
19.	*Aircraft Accidents*	*391*

* * * * * * *

CHAPTER 4.—DEPARTMENT OF DEFENSE

* * * * * * *

§ 136. Assistant Secretaries of Defense: appointment; powers and duties; precedence

(a) There are [seven] *ten* Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe. One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Health Affairs. He shall have as his principal duty the overall supervision of health affairs of the Department of Defense. One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of Defense. In addition, one of the Assistant Secretaries shall be the Comptroller of the Department of Defense and shall, subject to the authority, direction, and control of the Secretary—

(1) advise and assist the Secretary in performing such budgetary and fiscal functions and duties, and in exercising such budgetary and fiscal powers, as are needed to carry out the powers of the Secretary;

(2) supervise and direct the preparation of budget estimates of the Department of Defense;

(3) establish and supervise the execution of principles, policies, and procedures to be followed in connection with organizational and administrative matters relating to—

(A) the preparation and execution of budgets;

(B) fiscal, cost, operating, and capital property accounting;

(C) progress and statistical reporting; and

(D) internal audit;

(4) establish and supervise the execution of policies and procedures relating to the expenditure and collection of funds administered by the Department of Defense; and

(5) establish uniform terminologies, classifications, and procedures concerning matters covered by clauses (1)-(4) *One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.*

• • • • • • •

§ 138. Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports

[(a) No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for—]

(a) Funds appropriated to or for the use of any armed force for any fiscal year may be obligated or expended for—

• • • • • • •

[unless funds therefor have been specifically authorized by law.] *only to the extent that the funds for such purpose have been specifically authorized therefor by a law other than the law appropriating such funds. A provision in an appropriation Act may not be construed as superseding the limitation contained in the preceding sentence unless that provision specifically states that it supersedes the limitation contained in such sentence and makes specific reference to such sentence. For the purposes of the Impoundment Control Act of 1974, any failure to obligate or expend appropriated funds in order to comply with the prohibition in the first sentence of this subsection, shall not be considered a rescission, reservation, or deferral of budget authority.*

• • • • • • •

CHAPTER 19—AIRCRAFT ACCIDENTS

Sec.
391. Definition.
392. Investigation reports: limitation on use.

§ 391. Definition.

In this chapter, 'safety investigation' means an investigation conducted solely to determine the cause of an aircraft accident and to obtain information which may prevent the occurrence of similar accidents.

§ 392. Investigation reports: limitation on use

(a) The Secretary concerned may conduct a safety investigation of any accident involving an aircraft under the jurisdiction of the Secretary.

(b) No part of any record or report of a safety investigation described in subsection (c) may—

(1) be released outside of the armed force concerned, unless expressly authorized by the secretary concerned to be released for safety purposes;

(2) be subject to discovery in any judicial or administrative proceeding; or

(3) be used as evidence, or to obtain evidence, in any disciplinary action or suit or other judicial or administrative proceeding.

(c) Subsection (b) applies to any part of a record of report of a safety investigation relating to—

(1) the deliberative portions of an investigation, including any discussion, analysis, opinion, conclusion, finding, or recommendation;

(2) statements or information obtained under an express promise of confidentiality from a witness or manufacturer; and

(3) life science reports.

(d) This section does not limit or alter the authority of the National Transportation Safety Board under section 702(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1442(a)), section 304(a)(1)(A) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(a)(1)(A)), and section 6(d) of the Department of Transportation Act (49 U.S.C. 1655(d)).

(e) The Secretary concerned shall prescribe regulations to carry out this section.

* * * * * * *

PART II. PERSONNEL

* * * * * * *

CHAPTER 31.—ENLISTMENTS

* * * * * * *

§ 511. Reserve components: terms

(a) Except as otherwise prescribed by law, enlistments as Reserves are for terms prescribed by the Secretary concerned. However, an enlistment that is in effect at the beginning of a war or of a national emergency declared by Congress, or entered into during such a war or emergency, and that would otherwise expire, continues in effect until the expiration of six months after the end of that war or emergency, whichever is later, unless sooner terminated by the Secretary concerned.

(b) Under regulations to be prescribed by the Secretary concerned, a person who is qualified for enlistment for active duty in an armed force, and who is not under orders to report for induction into an armed force under sections 451–473 of title 50, appendix, may be enlisted as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve, for a term of [six years] *not less than six years nor more than eight years.* Each person enlisted under this subsection shall serve—

(2) satisfactorily as a member of the Ready Reserve for a period that, when added to his active duty under clause (1), totals five years; and

(3) the rest of his period of enlistment as a member of the Standby Reserve.

(c) In time of war or of national emergency declared by Congress the term of service of an enlisted member transferred to a reserve component according to law, that would otherwise expire, continues until the expiration of six months after the end of that war or emergency, whichever is later, unless sooner terminated by the Secretary concerned.

(d) Under regulatons to be prescribed by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a non-prior-service person who is qualified for induction for active duty in an armed force under the Military Selective Service Act of 1967 (50 U.S.C. App. 451–473), except as provided in section 6(c)(2)(A) (ii) and (iii) of such Act, may be enlisted in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve, for a term of [six years] *not less than six years nor more than eight years*. Each person enlisted under this subsection shall perform an initial period of active duty for training of not less than twelve weeks to commence insofar as practicable within 180 days after the date of that enlistment.

* * * * * * *

§ 532. Qualifications for original appointment as commissioned officer

(a) * * *

(e) Under regulations prescribed by the Secretary of Defense, the Secretary concerned may waive the requirement of subsection (a)(2) in the case of any person if the Secretary concerned determines that the waiver should be made because of exceptional or unusual circumstances and because the person with respect to whom the waiver is being made has a particular skill needed by the armed force concerned.

* * * * * * *

§ 651. Members: required service

[(a) Each person who becomes a member of an armed force, other than a person deferred under the next to the last sentence of section 456(d)(1) of title 50, appendix, shall serve in the armed forces for a total of six years, unless he is sooner discharged because of personal hardship under regulations prescribed by the Secretary of Defense or, if he is a member of the Coast Guard while it is not operating as a service in the Navy, by the Secretary of the Treasury. Any part of such service that is not active duty or is active duty for training shall be performed in a reserve component.]

(a) Each person who becomes a member of an armed force, other than a person deferred under the next to the last sentence of section

6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1)) shall serve in the armed forces for a total period of not less than six years nor more than eight years, as provided in regulations prescribed by the Secretary of Defense for the armed forces under is jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy, unless such person is sooner discharged under such regulations because of personal hardship. Any part of such service that is not active duty or is active duty for training shall be performed in a reserve component.

* * * * * * *

CHAPTER 39.—ACTIVE DUTY

Sec.
671. * * *
[688. Regular components: retired members.]
688. Active duty: retired and retained members.
689. Reserve officers: grade in which ordered to active duty.

§ 673b. Selected Reserve; order to active duty other than during war or national emergency

(a) Notwithstanding the provisions of section 673(a) or any other provision of law, when the President determines that it is necessary to arugment the active forces for any operational mission, he may authorize the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, without the consent of the members concerned, to order any unit, and any member not assigned to a unit organized to serve as a unit, of the Selected Reserve (as defined in section 268(b) of this title), under their respective jurisdictions, to active duty (other than for training) for not more than [90 days] *180 days.*

(b) No unit or member of a Reserve component may be ordered to active duty under this section to perform any of the functions authorized by chapter 15 or section 3500 or 8500 of this title, or to provide assistance to either the Federal Government or a State in time of a serious natural or manmade disaster, accident, or catastrophe.

(c) Not more than 50,000 members of the Selected Reserve may be on active duty under this section at any one time.

(d) Members ordered to active duty under this section shall not be counted in computing authorized strength in members on active duty or members in grade under this title or any other law.

(e) The Secretary of Defense and the Secretary of Transportation shall prescribe such policies and procedures for the Armed Forces under their respective jurisdictions as they consider necessary to carry out this section.

(f) Whenever the President authorizes the Secretary of Defense or the Secretary of Transportation to order any unit or member of the Selected Reserve to active duty, under the authority of subsection (a), he shall, within 24 hours after exercising such authority, submit to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth the circumstances necessitating the action taken under this

section and describing the anticipated use of these units or members.

(g) Whenever any unit of the Selected Reserve or any member of the Selected Reserve not assigned to a unit organized to serve as a unit is ordered to active duty under authority of subsection (a), the service of all units or members so ordered to active duty may be terminated by—

(1) order of the President, or

(2) a concurrent resolution of the Congress.

(h) Nothing contained in this section shall be construed as amending or limiting the application of the provisions of the War Powers Resolution.

(h)(1) Notwithstanding any other provision of law, during any period members of the Selected Reserve are serving on active duty pursuant to an order to active duty under authority of this section, the President may suspend any provision of law relating to promotion, mandatory retirement, or separation applicable to any member of the armed forces who the President determines is essential to the national security of the United States.

(2) A suspension made under authority of paragraph (1) shall terminate (A) upon release from active duty of members of the Selected Reserve ordered to active duty under authority of this section, or (B) at such time as the President determines the circumstances which required the action of ordering members of the Selected Reserve to active duty no longer exist, whichever is earlier.

* * * * * * *

§ 675. Retired Reserve

A member in the Retired Reserve may, if qualified, be ordered to active duty without his consent, but only as provided in section 672(a) *or 688* of this title.

§ 688. Regular components: retired members

(a) Under regulations prescribed by the Secretary of Defense, a retired member of the Regular Army, Regular Navy, Regular Air Force, [or] Regular Marine Corps, *a retired member of a reserve component of the armed forces who has completed at least 20 years of active service, or a member of the Fleet Reserve or Fleet Marine Corps Reserve" after "Marine Corps"; and* may be ordered to active duty by the Secretary of the military department concerned at any time. The Secretary concerned may, to the extent consistent with other provisions of law, assign a member ordered to active duty under this section to such duties as the Secretary considers necessary in the interests of national defense.

(b) *A member ordered to active duty under this section* [A retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps] who, while on active duty, is promoted to a grade that is higher than his retired grade is entitled, upon his release from that tour of active duty, to placement on the retired list in the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

(c) Except in time of war, or of national emergency declared by the Congress or the President after November 30, 1980, not more than fifteen retired general officers of the Army, Air Force, or Marine Corps, and not more than fifteen retired flag officers of the Navy, may be on active duty at any one time. For the purposes of this subsection a retired officer ordered to active duty for a period of sixty days or less is not counted.

* * * * * * *

§ 701. Entitlement and accumulation

(a) * * *

(f) Under uniform regulations to be prescribed by the Secretary concerned, and approved by the Secretary of Defense, a member who serves on active duty for a continuous period of at least 120 days in an area in which he is entitled to special pay under section 310(a) of title 37 or a member assigned to a deployable ship, mobile unit or to other duty designated for the purpose of this section, may accumulate 90 days' leave. Leave in excess of 60 days accumulated under this subsection is lost unless it is used by the member before the end of the *third* fiscal year after the fiscal year in which the service terminated.

* * * * * * *

CHAPTER 41.—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

Sec.

711. Senior members of Military Staff Committee of United Nations: appointment.
711a. American National Red Cross: detail of commissioned officers.
712. Foreign governments: detail to assist.
713. State Department: assignment or detail as couriers and building inspectors.
715. Reserve components: detail of members of regular and reserve components to assist.
[716. Commissioned officers: transfers between armed forces.]
716. Commissioned officers: transfers among the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service.
717. Members of the armed forces: participation in international sports.
718. Secretary of Defense: detail of officers to assist.
719. Department of Commerce: assignment or detail to Environmental Science Services Administration.

* * * * * * *

[§ 716. Commissioned officers: transfers between armed forces

Notwithstanding any other provision of law, the President may, within authorized strengths, transfer any commissioned officer with his consent from his armed force to, and appoint him in, another armed force. The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating shall jointly establish, by regulations approved by the President, policies and procedures for such transfers and appointments. An officer transferred under this section may not be assigned precedence or relative rank higher than that which he held on the day before is transfer.]

§ 716. Commissioned officers: transfers among the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service

(a)(1) The President may, within authorized strengths and with the consent of the officer involved, transfer any commissioned officer of a uniformed service from his uniformed service to, and appoint him in, another uniformed service. The Secretary of Defense, the Secretary of the Department of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Commerce, and the Secretary of Health and Human Services shall jointly establish, by regulations approved by the President, policies and procedures for such transfers and appointments.

(2) In this section, 'uniformed service' means any of the armed forces, the Commissioned Corps of the National Oceanic and Atmospheric Administration, or the Commissioned Corps of the Public Health Service.

(b) An officer transferred under this section may not be assigned precedence or relative rank higher than that which he held on the day before the transfer.

(c)(1) An officer who previously served on active duty as a commissioned officer of the National Oceanic and Atmospheric Administration or the Public Health Service and who is appointed or reappointed as a commissioned officer in any other uniformed service shall be credited for purposes of computing such officer's eligibility to retire, and the amount of such officer's retired pay, with the number of years of service with which he was credited for such purposes on the day before the termination of his previous period of active duty.

(2) For the purpose of determining the grade and rank within grade of a commissioned officer of the Public Health Service who transfers to, and is appointed as a commissioned officer in, an armed force, the Secretary concerned may, under regulations prescribed by the Secretary of Defense, credit such officer at the time of such appointment with any period of active commissioned service that such officer performed as a commissioned officer in the Public Health Service.

* * * * * * *

§ 1036. Escorts for dependents of members: transportation and travel allowances

Under regulations to be prescribed by the Secretary concerned, round trip transportation and travel allowances may be paid to any person for travel performed or to be performed under competent orders as an escort for dependents of a member of the armed forces, if the travel is performed not later than one year after the member—

(1) dies;

(2) is missing; or

(3) is otherwise unable to accompany his dependent;

and it has been determined that travel by the dependents is necessary and that they are incapable of traveling alone because of age, mental or physical incapacity, or other extraordinary circumstances.

The allowances authorized to be paid under this section may be paid in advance.

* * * * * * *

§ 1040. Transportation of dependent patients

(a) Except as provided in subsection (b), if a dependent accompanying a member of the uniformed services who is stationed outside the United States and who is on active duty for a period of more than thirty days requires medical attention which is not available in the locality, transportation of the dependents at the expense of the United States is authorized to the nearest appropriate medical facility in which adequate medical care is available. On his recovery or when it is administratively determined that the patient should be removed from the medical facility involved, the dependent may be transported at the expense of the United States to the duty station of the member or to such other place determined to be appropriate under the circumstances. If a dependent is unable to travel unattended, round-trip transporation and travel expenses may be furnished necessary attendants *and may be paid in advance.*

* * * * * * *

CHAPTER 55.—MEDICAL AND DENTAL CARE

Sec.
1071. Purpose of sections 1071–1087 of this title.
1072. Definitions.
1073. Administration of sections 1071–1087 of this title.
1074. Medical and dental care for members and certain former members.
1074a. Medical and dental care for members of the uniformed services for injuries incurred or aggravated while traveling to and from inactive-duty training and during certain other periods before and after the performance of such duty.
*1075. * * **
1090. Studies and demonstration projects on health care delivering systems.

* * * * * * *

§ 1074. Medical and dental care for members and certain former members.

(a) * * *

§ 1074a. Medical and dental care for members of the uniformed services for injuries incurred or aggravated while traveling to and from inactive-duty training and during certain other periods before and after the performance of such duty.

(a) Under joint regulations prescribed by the Secretary of Defense and the Secretary of Health and Human Services, a member of the uniformed services is entitled to the medical benefits described in subsection (b) for any injury incurred or aggravated—

(1) while the member is traveling directly to or from the place at which he is to perform, or has performed, inactive-duty training;

(2) during a reasonable period after the member arrives at the place at which he is to perform inactive-duty training and before he begins to perform the training;

(3) during a reasonable period after the member has performed inactive-duty training and before he begins travel from the place at which he performed the training;

(4) during the period between two inactive-duty training periods that are scheduled for the same day; and

(5) during the period between inactive-duty training periods if the training periods are scheduled for consecutive days and the member is authorized or required to occupy quarters on or in the vicinity of the place at which the training is performed and actually occupies such quarters or otherwise remains under military control.

(b) A person described in subsection (a) is entitled to—

(1) the hospitalization, rehospitalization, and medical care in a hospital and outpatient care appropriate for the treatment of his injury until the resulting disability cannot be materially improved by further hospitalization or treatment; and

(2) subsistence during hospitalization or rehospitalization.

§1089. * * *

§1090. Studies and demonstration projects on health care delivery systems

(a)(1) The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall conduct studies and demonstration projects on the health care delivery system of the uniformed services with a view to improving the quality, efficiency, convenience, and cost effectiveness of providing health care services (including dental care services) under this title to members, former members, and their dependents. Such studies and demonstration projects may include the following:

(A) Alternative methods of payment for health and medical care services.

(B) Cost-sharing by eligible beneficiaries.

(C) Methods of encouraging efficient and economical delivery of health and medical care services.

(D) Innovative approaches to delivery and financing of health and medical care services.

(E) Alternative approaches to reimbursement for the administrative charges of health care plans.

(2) The Secretary of Defense shall include in the studies conducted under paragraph (1) alternative programs for the provision of dental care to the spouses and dependents of members of the uniformed services who are on active duty, including a program under which dental care would be provided the spouses and dependents of such members under insurance or dental plan contracts.

(3) The Secretary of Defense shall submit to the Congress from time to time written reports on the results of the studies and demonstration projects conducted pursuant to this subsection and shall include in such reports such recommendations for improving the health care delivery systems of the uniformed services as he considers appropriate. He shall submit the first such report to the Congress not later than March 1, 1983.

(b) The Secretary of Defense may enter into contracts with public or private agencies, institutions, and organizations to conduct studies and demonstration projects under subsection (a).

(c) The Secretary of Defense may obtain the advice and recommendations of such advisory committees as the Secretary considers appropriate. Each such committee consulted by the Secretary under this subsection shall evaluate the proposed study or demonstration project as to the soundness of the objectives of such study or demonstration project, the likelihood of obtaining productive results based on such study or demonstration project, the resources which were required to conduct such study or demonstration project, and the relationship of such study or demonstration project to other ongoing or completed studies and demonstration projects.

(d) No demonstration project may be conducted under this section that provides for the furnishing of dental care under an insurance or dental plan contract.

* * * * * * *

§ 1401a. Adjustment of retired pay and retainer pay to reflect changes in Consumer Price Index

(a) Unless otherwise specifically provided by law, the retired pay or retainer pay of a member or former member of an armed force may not be recomputed to reflect any increase in the rates of basic pay for members of the armed forces. In this section, "Index" means the Consumer Price Index (all items, United States city average) published by the Bureau of Labor Statistics. *The amount computed, if not a multiple of $1, shall be rounded to the next lower multiple of $1.*

(b) * * *

(c) * * *

(d) * * *

[(e) Notwithstanding subsections (c) and (d), the adjusted retired pay or retainer pay of a member or former member of an armed force retired on or after October 1, 1967, may not be less than it would have been had he become entitled to retired pay or retainer pay based on the same pay grade, years of service for pay, years of service for retired or retainer pay purposes, and percent of disability, if any, on the day before the effective date of the rates of monthly basic pay on which his retired pay or retainer pay is based.]

(f) * * *

(g) Retired or retainer pay of a member of former member of an armed force as adjusted under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

§ 1402. Recomputation of retired or retainer pay to reflect later active duty

(a) A member of an armed force who has become entitled to retired pay or retainer pay, and who thereafter serves on active duty (other than for training), is entitled to recompute his retired pay or retainer pay upon his release from that duty [as follows:] *according to the following table. The amount recomputed, if not a multiple of $1, shall be rounded to the next lower multiple of $1.*

(b) * * *
(c) * * *
(d) A member of an armed force covered by subsection (b) or (c) may elect to receive either (1) the retired pay to which he became entitled when he retired, increased by any applicable adjustments in that pay under section 1401a of this after he initially became entitled to that pay, or (2) retired pay computed [as follows:] *according to the following table, The amount computed, if not a multiple of $1, shall be rounded to the next lower multiple of $1.*

§ 1402a. Recomputation of retired or retainer pay to reflect later active duty of members who first became members after September 7, 1980

(a) A member of an armed force who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) after September 7, 1980, who has become entitled to retired pay or retainer pay, and who thereafter serves on active duty (other than for training), is entitled to recompute his retired pay or retainer pay upon his release from that duty [as follows:] *according to the following table. The amount recomputed, if not a multiple of $1, shall be rounded to the next lower multiple of $1.*

* * * * * * *

(d) A member of an armed force covered by subsection (b) or (c) may elect to receive either (1) the retired pay to which he became entitled when he retired, increased by any applicable adjustments in that pay under section 1401a of this title after he initially became entitled to that pay, or (2) retired pay computed [as follows:] *according to the following table. The amount computed, if not a multiple of $1, shall be rounded to the next lower multiple of $1.*

* * * * * * *

§ 1437. Payment of annuity

(a) Except as provided in subsection (b) each annuity payable under this subchapter accrues as of the first day of the month in which the person upon whose pay the annuity is based dies. Payments shall be made in equal installments and not later than the fifteenth day of each month following that month. However, no annuity accrues for the month in which entitlement thereto ends. *The monthly amount of an annuity payable under this subchapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.*

* * * * * * *

§ 1451. Amount of annuity

(a) * * * *
(e) The monthly amount of an annuity payable under this subchapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

* * * * * * *

CHAPTER 81.—CIVILIAN EMPLOYEES

Sec.
1581. Appointment: professional and scientific serv. es.
1582. Professional and scientific services: reports to 'ongress on appointments.
1583. Employment of certain persons without compe. sation.
1584. Laws relating to employment of non-citizens: not applicable to research and development activities.
1585. Carrying of firearms.
1586. Rotation of career-conditional and career employees assigned to duty outside the United States.
1587. Employees of nonappropriated fund instrumentalities.

* * * * * * *

§ 1587. Employees of nonappropriated fund instrumentalities

(a) In this section:

(1) "Nonappropriated fund instrumentality employee" means a civilian employee who is paid from nonappropriated funds of Army and Air Force Exchange Service, Navy Resale and Services Support Office, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the armed forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the armed forces.

(2) "Civilian employee" has the meaning given the term 'employee' by section 2105 (a) of title 5.

(3) "Personnel action", with respect to a nonappropriated fund instrumentality employee (or an applicant for a position as such an employee), means—

(A) an appointment;

(B) a promotion;

(C) any disciplinary or corrective action;

(D) a detail, transfer, or reassignment;

(E) a reinstatement, restoration, or reemployment;

(F) a decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, or other action described in this paragraph; and

(G) any other significant change in duties or responsibilities that is inconsistent with the employee's salary or grade level.

(b) Any civilian employee, nonappropriated fund instrumentality employee, or member of the armed forces who has authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority, take or fail to take a personnel action with respect to any nonappropriated fund instrumentality employee (or any applicant for a position as such an employee) as a reprisal for—

(1) a disclosure of information by such an employee or applicant which the employee or applicant reasonably believes evidences—

(A) a violation of any law, rule, or regulation; or

(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

if such disclosure is not specifically prohibited by law and if the information in not specifically required by or pursuant to Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(2) a disclosure by such an employee or applicant to any civilian employee, nonappropriated fund instrumentality employee, or member of the armed forces designated by law or by the Secretary concerned to receive disclosures described in clause (1), of information which the employee or applicant believes evidences—

(A) a violation of any law, rule, or regulation; or

(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(c) This section does not apply to an employee in a position excluded from the coverage of this section by the President based upon a determination by the President that the exclusion is necessary and warranted by conditions of good administration.

(d) The Secretary of Defense shall be responsible for the prevention of actions prohibited by subsection (b) and for the correction of any such actions that are taken. The authority of the Secretary to correct such actions may not be delegated to the Secretary of a military department or to the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics.

(e) The Secretary of Defense, after consultation with the Director of the Office of Personnel Management and the Special Counsel of the Merit Systems Protection Board, shall prescribe regulations to carry out this section. Such regulations shall include provisions to protect the confidentiality of employees and applicants making disclosures described in clauses (1) and (2) of subsection (b).

* * * * * * *

SUBTITLE B–ARMY

PART 1. ORGANIZATION

* * * * * * *

CHAPTER 303.—DEPARTMENT OF THE ARMY

§ 3013. Under Secretary of the Army; Assistant Secretaries of the Army

There are an Under Secretary of the Army and [four] *five* Assistant Secretaries of the Army in the Department of the Army. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate. One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Army. One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Civil Works. He shall have as his principal duty the overall supervison of the functions of

the Department of the Army relating to programs for conservation and development of the national water resources including flood control, navigation, shore protection, and related purposes.

* * * * * * *

PART II. PERSONNEL

* * * * * * *

§ 3360. Commissioned officers: promotion service

(a) To be eligible under this chapter for (1) consideration for promotion, (2) examination for Federal recognition, or (3) promotion, a reserve commissioned officer must be in an active status.

(b) For the purposes of sections 3363, 3364, 3365, 3366(a) (column 2), 3367, 3370, 3371(a), 3382, 3819, and 3820(c) of this title, an officer's years of service are computed by adding—

(1) all service that he has, or is credited by the Secretary of the Army with having, in his current grade in the Army, or in the discretion of the Secretary of the Army, any other armed force, while in an active status or on the active list;

(2) for a person who was on active duty (other than for training) before September 3, 1945, all service while on active duty (other than for training) before January 1, 1949, in the Army or, in the discretion of the Secretary, any other armed force, in a temporary grade equal to or higher than his current reserve grade; and

(3) for a person originally appointed in a grade below colonel, all service credited under section 3353 of this title or section 22 of the Act enacting this section, that exceeds the minimum years of service prescribed by section 3359 of this title for the grade in which he is appointed.

No service may be counted more than once. [For a person credited with service under section 3353 of this title or section 22 of the Act enacting this section, no service before appointment or transfer may be counted under clause (1) or (2).]

(c) For the purposes of section 3369 of this title, an officer's years of service are the greater of—

(1) the sum of (A) his years of service as a commissioned officer of any component of the armed forces or of the Army without specification of component, (B) his years of service before June 15, 1933, as a commissioned officer in the federally recognized National Guard or in a federally recognized commissioned status in the National Guard, and in the National Guard after June 14, 1933, if his service therein was continuous from the date of his Federal recognition as an officer therein to the date of his appointment in the National Guard of the United States, and (C) the years of service credited to him under section 3353 of this title or section 22 of the Act enacting this section; and

(2) the number of years by which his age exceeds 25 years.

No service may be counted more than once. [For a person credited with service under section 3353 of this title or section 22 of the Act

enacting this section, no service before appointment may be counted.]

* * * * * * *

CHAPTER 337.—APPOINTMENTS AS RESERVE OFFICERS

Sec.
3351. * * *
[3380. Commissioned officers: election to continue on active duty after promotion.]
3380. Commissioned officers: promotion of reserve officers on active duty.

* * * * * * *

[§ 3380. Commissioned officers: election to continue on active duty after promotion

[(a) A reserve commissioned officer on active duty (other than for training) who is promoted to a reserve grade that is higher than the grade in which he is serving continues to serve on active duty in the grade in which he was serving immediately before that promotion. Unless he expressly declines the promotion he shall be treated as if he had accepted, on the date of that promotion, an appointment in a temporary grade equal to the grade in which he was serving before that promotion. If he elects not to continue on active duty in the grade in which he is serving, he shall, except as provided in subsection (b), be relieved from active duty and be promoted on the day after he is relieved or on the date on which he would have been promoted if he had stayed on active duty, whichever is the later. If he is relieved from active duty after the date on which he would have been promoted if he had stayed on active duty, he shall be credited with the service he would have had if he had remained on active duty and had been promoted.

[(b) A reserve commissioned officer on active duty (other than for training) who has not completed the period of active duty that he is required by law or regulation to perform as a member of a reserve component, and who is recommended or found qualified for promotion to a higher reserve grade, may not elect to be relieved from active duty under subsection (a), but may decline the promotion if he does not desire to serve on active duty in a grade lower than his reserve grade. If he so declines the promotion, he shall, if he applies, be promoted to the grade for which he was recommended or found qualified upon being temporarily promoted to that higher grade or, subject to subsection (a), upon completing his period of required active duty.]

§ 3380. Commissioned officers: promotion of reserve officers on active duty

(a) A reserve commissioned officer on active duty (other than for training) who is recommended for promotion to a reserve grade higher than the reserve grade in which the officer was ordered to active duty may be promoted to that higher grade and ordered to active duty in that higher grade, subject to subsection (b), for a period of time remaining on the active duty tour to which the officer was ordered to active duty in the lower grade.

(b) A reserve commissioned officer on active duty (other than for training) who is recommended for promotion to a reserve grade with

a numercial limitation prescribed by section 524 of this title may not be promoted and ordered to active duty under subsection (a) unless a vacancy exists in the number of reserve commissioned officers permitted on active duty in the grade to which the officer is recommended for promotion. If no vacancy exists in the grade to which the officer is recommended for promotion, the officer shall continue to serve in the grade to which he was ordered to active duty until—

(1) a vacancy occurs in the number of reserve commissioned officers permitted on active duty in the grade to which the reserve commissioned officer is recommended for promotion; or

(2) the officer is released from active duty by the Secretary concerned or is released from active duty as a result of the completion of his active duty tour;

whichever is earlier. A reserve commissioned officer whose promotion is delayed because of the grade limitation of section 524 of this title and who later is promoted in accordance with this section, will be promoted with the date of rank that the officer would have had but for his active duty tour. Such an officer will be credited for promotion purposes with the service in the higher grade from the adjusted date of rank. An adjustment of date of rank under this section may not be the basis for an adjustment in pay and allowances earned during the period for which the adjustment was made.

* * * * * * *

§ 3846. First lieutenants, captains, and majors not recommended by two selection boards

[Except as provided in**]** *(a) Except as provided in subsection (b) of this section and* sections 1005 and 1006 of this title, an officer in the reserve grade of first lieutenant, captain, or major who, while serving in the reserve grade that he then holds, was considered but not recommended for promotion by two selection boards convened under section 3366 or 3367 of this title, shall, within 90 days after the second selection board submits its report to the convening authority if he is not on active duty or is on active duty for training, or within 120 days after being notified of his failure of selection by the second selection board if he is on active duty (other than for training)—

(1) be transferred to the Retired Reserve, if he is qualified and applies therefor; or

(2) if he is not qualified or does not apply therefor, be discharged from his reserve appointment.

(b) The Secretary of the Army may retain in an active status an officer described in subsection (a) who is in the reserve grade of first lieutenant or captain for such a period as the Secretary prescribes or until such officer's removal from an active status is required by another provision of law.

* * * * * * *

§ 3853. Computation of years of service

For the purpose of determining whether a reserve commissioned officer may be transferred to the Retired Reserve, or discharged, under this chapter, his years of service are the greater of—

(1) the sum of (A) his years of service as a commissioned officer of any component of the armed forces or of the Army without specification of component, *and* (B) his years of service before June 15, 1933, as a commissioned officer in the federally recognized National Guard or in a federally recognized commissioned status in the National Guard, and in the National Guard after June 14, 1933, if his service therein was continuous from the date of his Federal recognition as an officer therein to the date of his appointment in the National Guard of the United States[, and (C) the years of service credited to him under section 3353 of this title or section 22 of the Act enacting this section]; and

(2) the number of years by which his age exceeds 25 years. No service may be counted more than once. [For a person credited with service under section 3353 of this title or section 22 of the Act enacting this section, no service before appointment may be counted.]

* * * * * * *

CHAPTER 373.—CIVILIAN EMPLOYEES

Sec.
[4022. Contract surgeons.]
4023. Service club and library services.
4024. Expert accountant for Inspector General.
4025. Production of supplies and munitions: hours and pay of laborers and mechanics.

[§ 4022. Contract surgeons

[(a) In an emergency the Surgeon General, with the approval of the Secretary of the Army, may employ as many contract surgeons as may be necessary.

[(b) When a contract surgeon is in charge of an Army hospital, he has the same authority as a commissioned officer of the Medical Corps.]

* * * * * * *

Subtitle C—Navy and Marine Corps

PART I. ORGANIZATION

* * * * * * *

CHAPTER 505.—SECRETARY, UNDER SECRETARY, AND ASSISTANT SECRETARIES OF THE NAVY

* * * * * * *

§ 5034. Assistant Secretaries of the Navy: appointment; duties

(a) There are [three] *four* Assistant Secretaries of the Navy in the Department of the Navy. They shall be appointed from civil life by the President, by and with the advice and consent of the Senate.

* * * * * * *

§ 6151. Higher retired grade and pay for members who serve satisfactorily under temporary appointments

(a) * * *

(e) Retired pay computed under subsection (b) or (c), if not a multiple of $1, shall be rounded to the next lower multiple of $1.

* * * * * * *

PART II. PERSONNEL

* * * * * * *

CHAPTER 571.—VOLUNTARY RETIREMENT

Sec.

* * * * * * *

6333. Treatment of fractions of dollar amounts in computing retired and retainer pay.

* * * * * * *

§ 6333. Treatment of fractions of dollar amounts in computing retired and retainer pay

Retired or retainer pay computed under this chapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

* * * * * * *

§ 6383. Regular Navy and Reuglar Marine Corps; officers designated for limited duty: retirement for length of service or failures of selection for promotion; discharge for failures of selection for promotion; reversion to prior status; retired grade; retired or severance pay

(a) * * *

(k) Retired pay computed under subsection (c), if not a multiple of $1, shall be rounded to the next lower multiple of $1.

* * * * * * *

PART IV. GENERAL ADMINISTRATION

* * * * * * *

CHAPTER 649—QUARTERS, UTILITIES, AND RELATED SERVICES

* * * * * * *

§ 7572. Quarters: accommodations in place of for members on sea duty

(a) * * *

[(3) The total amount of reimbursement under this subsection may not exceed $9,000,000 for fiscal year 1981 and $6,300,000 for fiscal year 1982.]

(3) The total amount of reimbursement under this subsection may not exceed $9,000,000 for fiscal year 1981, $6,300,000 for fiscal year 1982, and $4,000,000 for fiscal year 1983.

Subtitle D.—Air Force

* * * * * * *

PART II. PERSONNEL

* * * * * * *

CHAPTER 863.—SEPARATION

* * * * * * *

§ 8853. Computation of years of service

For the purpose of determining whether a reserve commissioned officer may be transferred to the Retired Reserve, or discharged, under this Chapter, his years of service are computed by adding—

(1) all service as a commissioned officer of any armed force; *and*

(2) all service before June 15, 1933, as a commissioned officer in the federally recognized National Guard or in a federally recognized commissioned status in the National Guard, and in the National Guard after June 14, 1933, if his service therein was continuous from the date of his Federal recognition as an officer therein to the date of his appointment in the National Guard of the United States [; and] .

[(3) all service credited to him under section 8353 of this title. No service may be counted more than once.]

* * * * * * *

CHAPTER 871.—COMPUTATION OF RETIRED PAY

§ 8991. Computation of retired pay

The monthly retired pay of a person entitled thereto under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed "For sections", retired pay is computed by taking, in order, the steps prescribed opposite it in columns 1, 2, 3, and 4, as modified by the applicable footnotes. *The amount computed, if not a multiple of $1, shall be rounded to the next lower multiple of $1.* However, if a person would otherwise be entitled to retired pay computed under more than one pay formula of this table or the table in section 1401 of this title, he is entitled to be paid under the applicable formula that is most favorable to him. Section references below are to sections of this title.

* * * * * * *

§ 8992. Recomputation of retired pay to reflect advancement on retired list

A member of the Air Force who is advanced on the retired list under section 8964 of this title is entitled to recompute his retired pay [as follows:] *according to the following table. The amount re-*

computed, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

* * * * * * *

CHAPTER 873.—CIVILIAN EMPLOYEES

Sec.
[9022. Contract surgeons.]
9023. Service club and library services.
9025. Production of supplies and munitions: hours and pay of laborers and mechanics.

[§ 9022. Contract surgeons

[(a) In an emergency the Secretary of the Air Force may employ as many contract surgeons as may be necessary.

[(b) When a contract surgeon is in charge of an Air Force hospital, he has the same authority as a medical officer.]

* * * * * * *

TITLE 14—COAST GUARD

* * * * * * *

PART I—REGULAR COAST GUARD

* * * * * * *

CHAPTER II—PERSONNEL

* * * * * * *

§ 423. Computation of retired pay

(a) Except as provided in subsection (b), the retired pay of a grade or rating shall be computed at the rate of 2½ percent of the sum of the basic pay of that grade or rating, and all permanent additions thereto including longevity credit to which the officer or enlisted man concerned was entitled at the time of retirement, multiplied by the number of years of service that may be credited to him under section 1405 of title 10. In the case of an enlisted member who served as the master chief petty officer of the Coast Guard, his retired pay shall be computed at the highest basic pay applicable to him while he so served, if that basic pay is greater than the basic pay of the grade or rating to which he was otherwise entitled at the time of retirement. In the case of an officer whose retired pay is computed on the pay of a grade for which basic pay is not based upon years of service the retired pay shall be 2½ percent of his basic pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which he would be entitled to credit in the computation of pay on the active list had he been serving in the grade of captain at the time of his retirement. A fractional year of six months or more shall be considered a full year in computing the number of years of service by which the rate of 2½ percent is multiplied.

(b) Notwithstanding any other provision of this title, the retired pay of each officer or enlisted member of the Coast Guard who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, is computed at the rate of 2½ percent of the monthly retired pay base (computed under section 1407(f) of title 10) multiplied by the number of years of service that may be credited to him under section 1405 of title 10, but the retired pay so computed may not be more than 75 percent of such monthly retired pay base. *Retired pay, if not a multiple of $1, shall be rounded to the next lower multiple of $1.*

* * * * * * *

TITLE 37—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

* * * * * * *

CHAPTER 3—BASIC PAY

* * * * * * *

§ 201. Pay grades: assignment to; general rules

(a) * * *

(b) A contract surgeon who is serving full time with a uniformed service is entitled to [basic pay of a commissioned officer in pay grade O–3 with over four, but not more than six,] *not more than the basic pay of a commissioned officer in the pay grade O–6 with more than twenty-six, but not more than thirty,* years of service computed under section 205 of this title.

* * * * * * *

§ 204. Entitlement

(a) * * *

(i) A member of the Naval Reserve, Fleet Reserve, Marine Corps Reserve, Fleet Marine Corps Reserve, or Coast Guard Reserve is entitled to the pay and allowances provided by law or regulation for a member of the Regular Navy, Regular Marine Corps, or Regular Coast Guard, as the case may be, of corresponding grade and length of service, under the same conditions as those described in classes (1) and (2) of subsection (g) of this section.

(j) A member of the uniformed services who is entitled to hospitalization and medical care under secton 1074a is entitled to travel and transportation allowances, or a monetary allowance in place thereof, for necessary travel incident to his hospitalization and medical care, and return to his home upon discharge from treatment.

* * * * * * *

CHAPTER 5—SPECIAL AND INCENTIVE PAYS

Sec.
301. Incentive pay: hazardous duty.
301a. Incentive pay: aviation career.
301b. Special pay: aviation career officers extending period of active duty.
301c. Incentive pay: submarine duty.
302. Special pay: medical officers of the armed forces.
302a. Special pay: optometrists.
302b. Special pay: dentists.
302c. [Repealed].
303. Special pay: veterinarians.
303a. Special pay: health professionals; general provisions.
304. Special pay: diving duty.
305. Special pay: while on duty at certain places.
305a. Special pay: career sea pay.
306. Special pay: officers holding positions of unusual responsibility and of critical nature.
307. Special pay: proficiency pay for enlisted members.
308. Special pay: reenlistment bonus.
308a. Special pay: enlistment bonus.
308b. Special pay: reenlistment bonus for members of the Selected Reserve.
308c. Special pay: bonus for enlistment in the Selected Reserve.
[308d. Special pay: bonus for enlistment, reenlistment, or extension of enlistment in elements of the Ready Reserve other than the Selected Reserve.]
308e. Special pay: bonus for reserve affiliation agreement.
308f. Special pay: bonus for enlistment in the Army.
308g. Special pay: bonus for enlistment in elements of the Ready Reserve other than the Selected Reserve.
308h. Special pay: bonus for reenlistment, enlistment, or voluntary extension of enlistment in elements of the Ready Reserve other than the Selected Reserve.
309. [Repealed].
310. Special pay: duty subject to hostile fire.
311. Special pay: continuation pay for dentists in the armed forces.
312. Special pay: nuclear-qualified officers extending period of active service.
312a. Special pay: nuclear-trained and qualified enlisted members.
312b. Special pay: nuclear career accession bonus.
312c. Special pay: nuclear career annual incentive bonus.
313. [Repealed].
314. Special pay: qualified enlisted members extending duty at designated locations overseas.
315. Special pay: engineering and scientific career continuation pay.

* * * * * * *

301b. Special pay: aviation career officers extending period of active duty

(a) Under regulations prescribed by the Secretary of Defense, or * * *.

(e)(1) An officer who receives special pay for any period under an agreement under this section is not entitled to aviation career incentive pay under section 301a of this title during such period at a rate that exceeds the rate for such pay in effect on September 30, 1981.

[(2) During the period beginning of the date of the enactment of the Uniformed Services Pay Act of 1981 and ending on September 30, 1982, only agreements executed by officers of the Navy or Marine Corps may be accepted under this section.]

(2) During the period beginning on October 14, 1981, and ending on September 30, 1983, only agreements executed by officers of the Navy or Marine Corps may be accepted under this section.

(3) During the period beginning on October 1, 1982, and ending on September 30, 1983, only an agreement—

(A) that is executed by an officer who—

(i) has at least six but less than eleven years of active duty;

(ii) has completed the minimum service required for aviation training; and

(iii) has not previously been paid special pay authorized by this section; and

(B) that requires the officer to remain on active duty in aviation service for either three or four years;

may be accepted under this section. An officer from whom an agreement is accepted during such period may be paid an amount not to exceed $4,000 for each year covered by that agreement if that officer agrees to remain on active duty for three years or an amount not to exceed $6,000 for each year covered by that agreement if that officer agrees to remain on active duty for four years. An agreement that requires an officer to remain on active duty in aviation service for six years may also be accepted during such period if the officer meets the requirements of clause (A) of this paragraph and such officer has completed less than seven years of active duty. An officer from whom such an agreement is accepted may be paid an amount not to exceed $6,000 for each year covered by the agreement.

(4) An officer may not receive incentive pay under section 301 of this title for the performance of hazardous duty for any period of service which the officer is obligated to serve pursuant to an agreement entered into under this section.

(f) Special pay may not be paid under this section for an agreement that applies to a period of active duty that begins after [September 30, 1982] *September 30, 1983.*

* * * * * * *

§ 308. Special pay: reenlistment bonus

(a)(1) A member of a uniformed service who—

* * * * * * *

(g) No bonus shall be paid under this section with respect to any reenlistment, or voluntary extension of an active-duty reenlistment in the armed forces entered into after [September 30, 1982] *September 30, 1983.*

§ 308a. Special pay: enlistment bonus

(a) Notwithstanding section 514(a) of title 10 or any other law, under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a person who enlists in an armed force for a period of at least four years in a skill designated as critical, or who extends his initial period of active duty in that armed force to a total of at least four years in a skill designated as critical, may be paid a bonus in an amount prescribed by the appropriate Secretary, but not more than $8,000. The bonus shall be paid in periodic installments, as determined by the appropriate Secretary, except that the first installment may not exceed $5,000 and the remainder shall be paid in equal periodic installments which may not be paid less frequently than once every 3 months.

(b) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a person who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a bonus was paid to him under this section or a member who is not technically qualified in the skill for which a bonus was paid to him under this section (other than a person who is not qualified because of injury, illness, or other impairment not the result of his own misconduct) shall refund that percentage of the bonus that the unexpired part of his enlistment is of the total enlistment period for which the bonus was paid.

(c) No bonus shall be paid under this section with respect to any enlistment or extension of an initial period of active duty in the armed forces made after [September 30, 1982] *September 30, 1983.*

* * * * * * *

[§ 308d. Special pay: bonus for enlistment, reenlistment, or extension of enlistment in elements of the Ready Reserve other than the Selected Reserve.

[(a)(1) Except as provided in paragraph (2) of this subsection, any person who enlists or reenlists, or voluntarily extends an enlistment, in an element (other than the Selected Reserve) of the Ready reserve of an armed force for a period of not less that three years may be paid a bonus as provided in subsection (b) of this section.

[(2) A bonus may not be paid under this section to any person who failed to complete satisfactorily any original term of enlistment in the armed forces.

[(b) Eligibility for a bonus under this section, and the amount and method of payment of such bonus shall be determined in accordance with regulations prescribed under subsection (c) of this section except that the amount of such a bonus may not exceed $600.

[(c) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy.

[(d)(1) A member who receives a bonus payment under this section and who fails during the period for which the bonus was paid to serve satisfactorily in the element of the Ready Reserve with respect to which the bonus was paid shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such member as the period which such member failed to satisfactorily serve bears to the total period for which the bonus was paid.

[(2) An obligation to reimburse the United States imposed under paragraph (1) of this subsection is for all purposes a debt owed to the United States.

[(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1) of this subsection. This paragraph applies to any case commenced under title 11 after September 30, 1980.

[(e) No bonus may be paid under this section to any person for an enlistment, reenlistment, or voluntary extension of an enlistment after September 30, 1981.]

* * * * * * *

§ 308g. Special pay: bonus for enlistment in elements of the Ready Reserve other than the Selected Reserve.

(a) any eligible person who enlists in a combat or combat support skill of an element (other than the Selected Reserve) of the Ready Reserve of an armed force for a term of enlistment of not less than six years, and who has not previously served in an armed force, may be paid a bonus as provided in subsection (b) of this section.

(b) Eligibility for and the amount and method of payment of a bonus under this section shall be determined in accordance with regulations prescribed under subsection (g) of this section, except that the amount of such a bonus may not exceed $1,000.

(c) A bonus may not be paid under this section to any person who fails to complete satisfactorily initial active duty for training or who, upon completion of initial active duty for training, elects to serve the remainder of his or her term of enlistment in the Selected Reserve or in an active component of an armed force.

(d) A person who receives a bonus payment under this section and who fails during the period for which the bonus was paid to serve satisfactorily in the element of the Ready Reserve with respect to which the bonus was paid shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such person as the period which such person failed to serve satisfactorily bears to the total period for which the bonus was paid.

(e) An obligation to reimburse the United States imposed under subsection (d) of this section is, for all purposes, a debt owed to the United States.

(f) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an enlistment for which a bonus was paid under this section does not discharge the person receiving such bonus payment from the debt arising under subsection (d) of this section. This subsection applies to any case commenced under title 11 after the date of enactment of the Uniformed Services Pay Act of 1982.

(g) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy.

(h) No enlistment bonus may be paid under this section to any person for an enlistment after September 30, 1984.

§ 308h. Special pay: bonus for reenlistment, enlistment, or voluntary extension of enlistment in elements of the Ready Reserve other than the Selected Reserve.

(a)(1) Any eligible person who is or has been a member of an armed force and who reenlists, enlists, or voluntarily extends an enlistment in a combat or combat support skill of an element (other than the Selected Reserve) of the Ready Reserve of an armed force for a period of not less than three years beyond any other period the

person is obligated to serve may be paid a bonus as provided in subsection (b) of this section.

(2) A bonus may not be paid under this section to any person who has failed to complete satisfactorily any original term of enlistment in the armed forces.

(b) Eligibility for and the amount and method of payment of a bonus under this section shall be determined under regulations to be prescribed under subsection (f) of this section except that the amount of such bonus may not exceed $900.

(c) A person who receives a bonus payment under this section and who fails during the period for which the bonus was paid to serve satisfactorily in the Ready Reserve shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such person as the period which such person failed to serve satisfactorily bears to the total period for which the bonus was paid.

(d) An obligation to reimburse the United States imposed under subsection (c) of this section is, for all purposes, a debt owed to the United States.

(e) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of a reenlistment, enlistment, or extension for which a bonus was paid under this section does not discharge the person receiving such bonus payment from the debt arising under subsection (c) of this section. This subsection applies to any case commenced under title 11 after the date of enactment of the Uniformed Services Pay Act of 1982.

(f) This section shall be administered under regulations to be prescribed by the Secretary of Defense for the armed forces under this jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy.

(g) No bonus may be paid under this section to any person for a reenlistment, enlistment, or voluntary extension of an enlistment after September 30, 1984.

* * * * * * *

Chapter 7—Allowances

Sec.
401. Definitions.
402. Basic allowance for subsistence.
403. Basic allowance for quarters, variable housing allowance.
404. Travel and transportation allowances: general.
404a. Travel and transportation allowances: temporary lodging expenses.
405. Travel and transportation allowances: per diem while on duty outside the United States or in Hawaii or Alaska.
405a. Travel and transportation allowances: evacuation allowances.
406. Travel and transportation allowances: dependents; baggage and household effects.
406a. Travel and transportation allowances: authorized for travel performed under orders that are canceled, revoked, or modified.
406b. Travel and transportation allowances: members of the uniformed services attached to a ship overhauling or inactivating away from home port.
407. Travel and transportation allowances: dislocation allowances.
408. Travel and transportation allowances: travel within limits of duty station.
409. Travel and transportation allowances: house trailers and mobile homes.
410. Travel and transportation allowances: miscellaneous categories.
411. Travel and transportation allowances: administrative provisions.
411a. Travel and transportation allowances: travel performed in connection with convalescent leave.

411b. Travel and transportation allowances: travel performed in connection with certain leave.
411c. Travel and transportation allowances: travel performed in connection with leave from certain stations in foreign countries.
411d. Travel and transportation allowances: transportation incident to certain emergencies for members stationed abroad.
411e. Travel and transportation allowances: transportation incident to certain emergencies for members performing temporary duty.
412. Appropriations for travel: may not be used for attendance at certain meetings.
413. Chairman of the Joint Chiefs of Staff.
414. Personal money allowance.
415. Uniform allowance: officers; initial allowance.
416. Uniform allowance: officers; additional allowances.
417. Uniform allowance: officers; general provisions.
418. Clothing allowance: enlisted members.
419. Allowances while participating in international sports.
420. Allowances: no increase while dependent is entitled to basic pay.
421. Contract surgeons.
422. Cadets and midshipmen.
423. Validity of allowance payments based on purported marriages.
424. Band leaders.
425. United States Navy Band; United States Marine Band: allowance while on concert tour.
426. [Repealed].
427. Family separation allowance.
428. Allowance for recruiting expenses.
429. Travel and transportation allowances: minor dependent schooling.
430. Travel and transportation allowances: advance travel from overseas for dependent children for education purposes.

* * * * * * *

§ 406. Travel and transportation allowance: dependents; baggage and household effects

(a)(1) Except as provided in paragraph (2) of this subsection, a * * *

(b)(1)*(A)* Except as provided in paragraph (2) of this subsection, in connection with a change of temporary or permanent station, a member is entitled to transportation (including packing, crating, drayage, temporary storage, and unpacking) of baggage and household effects, or reimbursement therefor, within such weight allowances prescribed by the Secretaries concerned, without regard to the comparative costs of the various modes of transportation. Temporary storage in excess of 180 days may be authorized.

[Subject to regulations prescribed by the Secretaries concerned, in the case of a change of permanent station in which the Secretary concerned has authorized transportation under section 2634 of title 10 of a motor vehicle that is owned by the member (or a dependent of the member) and is for the personal use of the member or his dependents, the member is entitled to a monetary allowance for transportation of that motor vehicle to the point at which transportation authorized under section 2634 to title 10 commences and from the point at which transportation authorized under that section terminates. Such monetary allowance shall be established at a rate per mile that does not exceed the rate established under section 404(d)(1) of this title.]

(B) Subject to uniform regulations prescribed by the Secretaries concerned, in the case of a permanent change of station in which the Secretary concerned has authorized transportation of a motor vehicle under section 2634 to title 10 (except when such transportation

is authorized from the old duty station to the new duty station), the member is entitled to a monetary allowance for transportation of that motor vehicle—

(i) from the old duty station to—

(I) the customary port of embarkation which is nearest the old duty station if delivery of the motor vehicle to the port of embarkation is not made in conjunction with the member's travel to the member's port of embarkation; or

(II) the customary port of embarkation which is nearest to the member's port of embarkation if delivery of the motor vehicle to the port of embarkation is made in conjunction with the member's travel to the member's port of embarkation;

whichever is most cost-effective for the Government considering all operational, travel, and transportation requirements incident to such change of station; and

(ii) from the customary port of debarkation which has been designated by the Government as most cost-effective for the Government considering all operational, travel, and transportation requirements incident to such change of station to the new duty station.

Such monetary allowance shall be established at a rate per mile that does not exceed the rate established under section 404 (d)(1) of this title.

(2) The transportation and allowances authorized under paragraph (1) of this subsection may be paid or provided to a member upon his separation from the service or release from active duty only if the member applies for the transportation and allowances not later than 180 days after the date of his separation or release from active duty. If a member to whom this paragraph applies has been authorized nontemporary storage under subsection (d) of this section, the 180-day period shall not begin until such authorization for nontemporary storage expires. This paragraph does not apply to a member to whom subsection (g)(1) of this section applies.

* * * * * * *

§ 421. Contract surgeons

[(a) A contract surgeon who is serving full time with a uniformed service is entitled to the basic allowances, and other allowances authorized by this chapter, of a commissioned officer in pay grade O–3 with over four, but not more than six, years of service computed under section 205 of this title.]

(a) A contract surgeon who is serving full time with a uniformed service may be paid not more than the basic allowances, and other allowances authorized by this chapter, of a commissioned officer in pay grade O–6 with twenty-six, but not more than thirty, years of service computed under section 205 of this title.

(b) A contract surgeon who is serving part time with a uniformed service is entitled to the travel and transportation allowances authorized by this chapter under the same conditions and in the same amounts as are applicable to commissioned officers.

* * * * * * *

§ 430. Travel and transportation allowances: advance travel from overseas for dependent children for education purposes

(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service—

(1) whose permanent duty station is outside the United States;

(2) who is accompanied at or near that station by a dependent described in section 401(2) of this title who has been admitted for enrollment in a post-secondary educational institution in the United States; and

(3) who would be entitled to the travel and transportation allowances provided for by section 401(a)(1) of this title for the dependent if the member were ordered to make a permanent change of station;

may be provided transportation in kind for the dependent, to reimbursement therefor, or to a monetary allowance in place of that transportation at a rate equal to the rate prescribed for a monetary allowance under section 406(a)(1) of this title from the member's duty station to a port of debarkation in the United States nearest the member's overseas duty station or to the member's home of record, whichever point the member specifies.

(b) If a member has been provided with the travel and transportation allowances authorized by subsection (a) of this section for a dependent, the member will not be entitled to the travel and transportation allowances prescribed by section 406(a)(1) of this title for that dependent to which such member otherwise would be entitled when ordered to make a permanent change of station from the duty station referred to in subsection (a)(1) of this section.

* * * * * * *

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1981

PUBLIC LAW 96-342 (94 STAT. 1077)

* * * * * * *

TITLE V—CIVILIAN PERSONNEL

* * * * * * *

STRENGTHENING OF RESTRICTIONS ON CONVERSION OF PERFORMANCE OF COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS FROM DEPARTMENT OF DEFENSE PERSONNEL TO PRIVATE CONTRACTORS

SEC. 502. (a) * * *.

[(d) This section shall take effect on October 1, 1980.]

(d) A commercial or industrial function of the Department of Defense may not be performed by a private contractor if the Secretary of Defense, in his sole discretion, determines that in order to meet national defense needs such function must be performed by military or civilian personnel of the Department of Defense. A commercial or industrial activity of the Department of Defense may be considered to be necessary to meet national defense needs if—

(1) the activity is operated by military personnel and the Secretary of Defense determines that—

(A) the activity is utilized in, or is subject to deployment in, a direct combat role;

(B) the activity is essential for training in skills that are exclusively military in nature;

(C) the activity is needed to provide work assignments for career progression or for a rotation base for overseas or sea duty assignments; or

(D) the activity is an integral part of a combat or combat support unit providing self-sufficiency in maintenance of assigned weapons systems; or

(2) the activity performs depot or intermediate-level maintenance and is necessary to ensure a ready and controlled source of technical competence and resources that, in combination with available contractor support, will meet effectively and efficiently peacetime, mobilization, and sustained combat equipment readiness requirements;

(3) the performance of the activity by other than military or civilian personnel of the Department of Defense would adversely affect national defense capabilities; or

(4) the activity is one on a military installation that is so essential to safety or security at the installation that the potential for interruption in performance would be hazardous to safety of personnel or security at the installation.

(e) As a part of the notification to Congress under subsection (a)(2)(A), the Secretary of Defense shall include the assessment of the military commander of the major operating command assigned the responsibility for determining whether the function being considered for possible performance by a private contractor is a function described in clause (1), (2), (3), or (4) of subsection (d) that must be performed by military or civilian personnel of the Department of Defense in order to meet national defense needs.

(f) In performing any cost comparison pursuant to subsection (a)(2)(B), the Secretary of Defense shall ensure that the cost comparison includes a full and complete accounting of costs for both the Government and private contractor performance, excluding costs common to both. In accordance with guidelines promulgated by the Secretary of Defense, in any such cost comparison, the cost to the Government of the cost comparison study shall be reflected as follows: (1) if conducted for an activity not being performed by a private contractor, the cost of the study shall be reflected as a cost of performance by the contractor; or (2) if conducted for an activity being performed by a private contractor, the cost of the study shall be reflected as a cost of performance by the Government.

(g)(1) Except as provided in paragraph (2), in the case of any new requirement for a commercial or industrial type function or activity of the Department of Defense established after the end of the 60-day period beginning on the date of the enactment of the Uniformed Services Pay Act of 1982, the Secretary of Defense shall determine (before deciding whether to use Department of Defense personnel or a private contractor for the performance of the function or activity) whether performance would be less costly to the Government using Department of Defense personnel or a private contractor. Any such

determination shall be made based on a cost comparison carried out in accordance with such procedures as the Secretary of Defense shall prescribe.

(2) Paragraph (1) does not apply to a function that under subsection (d) may not be performed by a private contractor because of a determination by the Secretary of Defense under that subsection.

* * * * * * *

COAST AND GEODETIC SURVEY COMMISSIONED OFFICERS' ACT OF 1948

PUBLIC LAW 96-342 (94 STAT. 1110)

* * * * * * *

"SEC. 16. (a) Each commissioned officer on the retired list shall receive retired pay—

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10, United States Code) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the rank with which retired; or

"(2) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10, United States Code) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(g) of title 10, United States Code;

multiplied by the number of years of service that may be credited to him under section 1405 of title 10, United States Code, as if his service were service as a member of the Armed Forces, but the retired pay so computed may not exceed 75 percent of the basic pay of the rank with which retired or 75 percent of the monthly retired pay base, as the case may be. *Retired pay, if not a multiple of $1, shall be rounded to the next lower multiple of $1.*

* * * * * * *

PUBLIC HEALTH SERVICE ACT

(42 U.S.C. 201 ET SEQ.)

§ 211. Military Benefits

RETIREMENT OF COMMISSIONED OFFICERS

SEC. 211. (a)(1) A commmissioned officer of the Service shall, if he applies for retirement, be retired on or after the first day of the month following the month in which he attains the age of sixty-four years. This paragraph does not permit or require the involuntary retirement of any individual because of the age of the individual.

(2) A commissioned officer of the Service may be retired by the Secretary, and shall be retired if he applies for retirement, on the first day of any month after completion of thirty years of active service.

(3) Any commissioned officer of the Service who has had less than thirty years of active service may be retired by the Secretary,

with or without application by the officer, on the first day of any month after completion of twenty or more years of active service of which not less than ten are years of active commissioned service in any of the uniformed services.

(4) Except as provided in paragraph (6), a commissioned officer retired pursuant to paragraph (1), (2), or (3) who was (in the case of an officer in the Reserve Corps) on active duty with the Service on the day preceding such retirement shall be entitled to receive retired pay at the rate of 2½ per centum of the basic pay of the highest grade held by him as such officer and in which, in the case of a temporary promotion to such grade, he has performed active duty for not less than six months, (A) for each year of active service, or (B) if it results in higher retired pay, for each of the following years:

(i) his years of active service (determined without regard to subsection (d)) as a member of a uniformed service; plus

(ii) in the case of a medical or dental officer, four years and, in the case of a medical officer, who has completed one year of medical internship or the equivalent thereof, one additional year, the four years and the one year to be reduced by the period of active service performed during such officer's attendance at medical school or dental school or during his medical internship; plus

(iii) the number of years of service with which he was entitled to be credited for purposes of basic pay on May 31, 1958, or (if higher) on any date prior thereto, reduced by any such year included under clause (i) and further reduced by any such year with which he was entitled to be credited under paragraphs (7) and (8) of section 205(a) of title 37, United States Code, on any date before June 1, 1958;

except that (C) in the case of any officer whose retired pay, so computed, is less than 50 per centum of such basic pay, who retires pursuant to paragraph (1) of this subsection, who has not less than twelve whole years of active service (computed without the application of subsection (e)), and who does not use, for purposes of a retirement annuity under the Civil Service Retirement Act,[1] any service which is also creditable in computing his retired pay from the Service, it shall, instead, be 50 per centum of such pay, and (D) the retired pay of an officer shall in no case be more than 75 per centum of such basic pay.

(5) With the approval of the President, a commissioned officer whose service as Surgeon General, Deputy Surgeon General, or Assistant Surgeon General has totaled four years or more and who has had not less than twenty-five years of active service in the Service may retire voluntarily at any time; and except as provided in paragraph (6), his retired pay shall be at the rate of 75 per centum of the basic pay of the highest grade held by him as such officer.

(6) In computing retired pay under paragraph (4) or (5) in the case of any commissioned officer who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 198[illegible], the monthly retired pay base computed under section 1407(h) of title 10, United States

Code, shall be used in lieu of using the basic pay of the highest grade held by him as such officer.

(b) For purposes of subsection (a), the basic pay of the highest grade to which a commissioned officer has received a temporary promotion means the basic pay to which he would be entitled if serving on active duty in such grade on the date of his retirement.

(c) A commissioned officer, retired for reasons other than for failure of promotion to the senior grade, may (1) if an officer of the Regular Corps or an officer of the Reserve Corps entitled to retired pay under subsection (a), be involuntarily recalled to active duty during such times as the Commissioned Corps constitutes a branch of the land or naval forces of the United States, and (2) if an officer of either the Regular or Reserve Corps, be recalled to active duty at any time with his consent.

(d) The term "active service", as used in subsection (a), includes:

(1) all active service in any of the uniformed services;

(2) active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service only the last five years thereof may be included; and

(3) all active service (other than service included under the preceding provisions of this subsection) which is creditable for retirement purposes under laws governing the retirement of members of any of the uniformed services.

(e) For the purpose of determining the number of years by which a percentage of the basic pay of an officer is to be multiplied in computing the amount of his retired pay pursuant to section 210(g)(3) or paragraph (4) of subsection (a) of this section, a part of a year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded.

(f) For purposes of retirement or separation for physical disability under chapter 61 of title 10, United States Code, a commissioned officer of the Service shall be credited, in addition to the service described in section 1208(a)(2) of that title, with active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service, only the last five years thereof may be so credited. For such purposes, such section 1208(a)(2) shall be applicable to officers of the Regular or Reserve Corps of the Service.

(7) Retired pay computed under section 210(g)(3) or under paragraph (4) or (5) of this subsection, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

* * * * * * *

○